

AMENDED IN SENATE MAY 24, 2007

AMENDED IN SENATE MARCH 27, 2007

SENATE BILL

No. 823

Introduced by Senator Perata

February 23, 2007

An act to add Chapter 7 (commencing with Section 94700) to Part 59 of Division 10 of Title 3 of the Education Code, relating to private postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 823, as amended, Perata. Private postsecondary education: California *Private* Postsecondary Education Act of 2007.

(1) The Private Postsecondary and Vocational Education Reform Act of 1989 generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes in the Department of Consumer Affairs the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act.

The act establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The act specifies that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act are punishable as crimes.

A provision of the act provides for it to become inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.

This bill would recast, revise, and reenact the provisions of the Private Postsecondary and Vocational Education Reform Act of 1989 as the

California Private Postsecondary Education Act of 2007. The bill would establish the Board for Private Postsecondary Education in the Department of Consumer Affairs, and would provide that the board would *generally* succeed to the duties assigned to the bureau under the 1989 act.

The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, thereby making an appropriation. Certain violations of the new act would be punishable as crimes, thereby establishing a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) The bill would not become operative unless and until ~~A.B.~~ AB 1525 is chaptered and becomes operative.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that the most
2 qualified and experienced staff continue working in the program
3 to regulate under the California Private Postsecondary Education
4 Act of 2007, and that, in accordance with Section 19050.9 of the
5 Government Code, staff currently working in a regulatory capacity
6 with regard to those institutions subject to Chapter 7 (commencing
7 with Section 94700) of Part 59 of Division 10 of the Education
8 Code, as of June 30, 2007, should continue working to administer
9 that act.

10 SEC. 2. Chapter 7 (commencing with Section 94700) is added
11 to Part 59 of Division 10 of Title 3 of the Education Code, to read:

1 CHAPTER 7. ~~PRIVATE POSTSECONDARY INSTITUTIONS~~
2 *CALIFORNIA PRIVATE POSTSECONDARY EDUCATION ACT OF 2007*

3
4 Article 1. General Provisions
5

6 94700. This chapter shall be known, and may be cited, as the
7 California Private Postsecondary Education Act of 2007.

8 94701. The Legislature finds and declares all of the following:

9 (a) The fundamental problems with the Private Postsecondary
10 and Vocational Education Program have been studied extensively
11 and are well documented.

12 (b) It is the intent of the Legislature to establish a system of
13 governance that addresses the problems that have led to mediocre
14 educational services for California students by a substandard
15 bureaucratic scheme.

16 (c) This chapter is intended to provide for full protection of
17 students and a quality education through a transparent, accountable,
18 and streamlined regulatory process.

19 (d) Implementation of this chapter should promote an effective
20 integration of private postsecondary education into all aspects of
21 California's educational system and foster and improve the
22 educational programs and services of these institutions while
23 protecting the citizens of the state from fraudulent or substandard
24 operations.

25 (e) It is the intent of the Legislature to recognize the diversity
26 of California's private postsecondary educational enterprise by
27 establishing standards and procedures designed to foster the
28 development of high quality, innovative educational programs in
29 emerging new fields of study, and restore the integrity of the
30 education delivered via the private postsecondary *educational*
31 industry.

32 (f) It is the further intent of the Legislature to provide for the
33 enhanced protection, education, and welfare of citizens of
34 California, its postsecondary educational institutions, and its
35 students by more effectively providing for all of the following:

36 (1) Ensuring minimum standards of instructional quality and
37 institutional stability for all students in all types of institutions,
38 and thereby encouraging the recognition by public and private
39 institutions of completed coursework and degrees issued by private
40 institutions, to the end that students will be provided equal

1 opportunities for equal accomplishment and ability through
2 articulation.

3 (2) Establishing minimum standards concerning the quality of
4 education, ethical and business practices, health and safety, and
5 fiscal responsibility to provide protection against substandard,
6 transient, unethical, deceptive, or fraudulent institutions and
7 practices.

8 (3) Prohibiting the granting of false or misleading educational
9 credentials.

10 (4) Recognizing the importance of providing adequate funding
11 through application and renewal fees and federal funding for the
12 veterans' approval process to support the state's activities in
13 implementing this chapter.

14 (5) Protecting the consumer and students against fraud,
15 misrepresentation, or other practices that may lead to an improper
16 loss of funds paid for educational costs, whether financed through
17 personal resources or state and federal student financial aid.

18 (6) Establishing a path for the development of institutions
19 offering fields of study or methods of instruction and innovative
20 educational delivery systems not previously recognized in order
21 to encourage them to become fully approved institutions.

22 (7) Recognizing and encouraging quality nongovernmental
23 accreditation, while not ceding to that or any other
24 nongovernmental process the responsibility for state oversight for
25 purposes of approval, if the accreditation process fails either to
26 protect minimum standards of quality or to acknowledge legitimate
27 innovative methods in postsecondary education.

28 (8) Establishing an administrative agency that is staffed by
29 individuals who are knowledgeable about private postsecondary
30 education, the norms, values, and standards related to higher
31 education in general, and is charged with the responsibility of
32 developing policies and procedures for the oversight and approval
33 of private postsecondary education, including the responsibility
34 for managing a broadly construed policy and planning process that
35 seeks to improve state accountability for private postsecondary
36 education. This new body should provide the leadership, planning,
37 coordination, and oversight needed to maintain and develop a
38 strong private sector in this community.

Article 2. Definitions

94710. The definitions set forth in this article govern the construction of this chapter, unless the context requires otherwise.

94711. “Academic year” generally means a period including a minimum of 30 weeks of instruction, beginning in the fall term of a given year and ending at the end of the summer term of the succeeding year. Some private postsecondary *educational* institutions may adopt a different definition (that is, calendar year) for their academic term, to accommodate unique or nontraditional conditions such as continuous enrollment or shorter or longer term sessions.

94712. “Accredited” means that an institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the United States Department of Education, or the Committee of Bar Examiners ~~or~~ for the State of California. It does not include those institutions that have applied for accreditation, or are identified by accrediting associations as candidates for accreditation or have initial accreditation.

94713. “Agent for service of process” means an individual who has consented to act on behalf of the institution’s ownership to receive administrative and judicial notices and pleadings at his or her California address.

94714. “Annual report” means the reports required to be filed pursuant to Section 94802.

94715. “Applicant” means a person or entity that has submitted an application but whose evaluation has not been completed by the board. An applicant shall not enroll students or offer educational services until the board has made a determination regarding the application.

94716. An “approval” means a written document issued by the board authorizing a business entity or an institution to engage in the recruitment of and advertisement to students for enrollment in private postsecondary ~~education~~ *educational* institutions approved under this chapter.

94717. “Approval” or “approval to operate” means that the board has determined and certified that an institution meets minimum standards established by the board for integrity, financial stability, and educational quality, including the offering of bona fide instruction by qualified faculty and the appropriate assessment

1 of students' achievement before, during, and at the end of its
2 program.

3 94718. "Associate of Occupational Studies" or "Associate of
4 Applied Science" designated by terms including, but not
5 necessarily limited to, AOS (Associate Occupational Studies) or
6 AAS (Associate Applied Science) means an associate degree that
7 may be awarded to students who complete an occupational program
8 that provides preparation for employment in an occupational field.

9 94719. "Avocational education" means education offered only
10 for purposes of personal entertainment, personal pleasure, or
11 enjoyment, such as a hobby. Education that directly leads to an
12 objective other than personal entertainment, personal pleasure or
13 enjoyment is not "education solely avocational in nature."

14 94720. "Board" means the Board for Private Postsecondary
15 and Vocational Education established, pursuant to Section 94780,
16 in the Department of Consumer Affairs.

17 94721. "Branch" means a site other than the main location or
18 a satellite. Only educational services that are approved at the main
19 location shall be offered at the satellite. The name of the "branch"
20 location shall be identical to that of the "main" location approved
21 by the board.

22 94722. "Calendar year" means the consecutive 12-month period
23 beginning on January 1 and ending on December 31.

24 94723. "Career field" means either of the following:

25 (a) A field for or pursuit of consecutive progressive achievement
26 especially in public, professional, or business life.

27 (b) A profession for which one trains and which is undertaken
28 as a permanent calling.

29 94724. "Certificate" means a formal academic award that
30 represents, purports to constitute, or may generally be taken to
31 signify, completion of a course of instruction for which college or
32 university-level academic credit is given, but which is shorter or
33 more limited than that leading to a degree. A "certificate" may be
34 at the undergraduate or graduate level.

35 94725. "Change of location" means a move of up to 25 miles
36 of the location at which an institution offers any education, training,
37 or instruction. A change of location of 25 or more miles is deemed
38 the establishment of a new location of instruction requiring a
39 separate approval to operate, unless otherwise provided by the
40 board.

1 94726. “Class” means a subject matter that is taught as part of
2 a course of instruction.

3 94727. “Class session” means the part of a day that an
4 institution conducts instruction or training in a particular class,
5 such as an hour of instruction in English or mathematics offered
6 on a particular day of the week.

7 94728. “College” or “university” means any incorporated
8 postsecondary educational entity, and its additional locations,
9 offering a substantially complete program that confers or offers
10 to confer at least an associate degree requiring at least 15 semester
11 hours or the equivalent of general education, or that furnishes or
12 offers to furnish instruction leading toward, or prerequisite to,
13 college credit. The terms include any college-credit-granting
14 independent educational institution that is chartered in this state
15 and any center or branch campus within this state of an out-of-state
16 institution at the college-credit level, or an out-of-state institution
17 with a “physical presence” in this state.

18 94729. “Course of study” means a formally organized and
19 structured series of meetings open to the general public for which
20 a fee is charged, and for which credit toward a postsecondary
21 degree either is awarded or may reasonably be understood to be
22 applicable to a degree with the intent of imparting information or
23 understanding at a level appropriate to a postsecondary audience.
24 It may be comprised of either a single course or a set of related
25 courses for which a student enrolls.

26 94729.5. “CPEC” means the California Postsecondary
27 Education Commission established pursuant to Section 66901, or
28 a successor organization.

29 94730. “Credit hour” means the unit by which an institution
30 measures its coursework. The number of credit hours assigned to
31 a course is defined by the number of hours per week in class and
32 preparation and the number of weeks in a term. One credit hour
33 is usually assigned for three hours of student work per week or its
34 equivalent. The three hours of student work per week usually
35 consists of a combination of one hour of lecture and two hours of
36 homework or three hours of laboratory. Semester and quarter credit
37 hours are the most common systems of measuring coursework. A
38 semester credit hour is based on at least a 15-week calendar or its
39 equivalent. A quarter credit hour is based on at least a 10-week
40 calendar or its equivalent.

1 94731. “Degree” means any type of degree or honorary degree
2 or title of any designation, mark, appellation, series of letters or
3 words, including, but not necessarily limited to, associate, bachelor,
4 master, doctor, or fellow that signifies, purports to constitute, or
5 is generally taken to signify, satisfactory completion of the
6 requirements of an academic, educational, technological, or
7 professional program of study beyond the secondary school level
8 or is an honorary title conferred for recognition of some meritorious
9 achievement.

10 94732. “Degree title” means the designated subject area of
11 study that also appears on the face of the document awarded to a
12 student signifying the conferring of a “degree.”

13 94733. “Diploma” means any diploma, document, or other
14 writing in any language, other than a “degree” or “certificate” that
15 signifies, purports to constitute, or is generally taken to signify,
16 satisfactory completion of the requirements of an academic,
17 educational, technological, or professional program of study
18 beyond the secondary school level.

19 94734. “Diploma program” means an educational program
20 having all of the following characteristics:

21 (a) The educational program consists of a job-training program
22 or other instruction, training, or education that the institution
23 represents will lead to, or fit or prepare students for, employment
24 in any occupation.

25 (b) Students who complete all or a portion of the program are
26 awarded a noncredit bearing diploma or certificate of completion.

27 94735. “Distance education” means education that is designed
28 for learners who live at a distance from the teaching institution or
29 education provider. It is the enrollment and study with an
30 educational institution that provides organized formal learning
31 opportunities for students. Presented in a sequential and logical
32 order, the instruction is offered wholly or primarily by distance
33 study, through any media.

34 94736. “Distance learning school” means any institution that
35 provides lessons for study and completion by a student at a location
36 separate from the institution by correspondence, the Internet, or
37 other electronic means, including, but not necessarily limited to,
38 those institutions that offer that instruction in combination with
39 in-residence instruction.

1 94737. “Education,” “educational program,” or “educational
2 services” includes, but is not necessarily limited to, any class,
3 course, or program of training, instruction, or study. “Educational
4 service” also means any education, training, or instruction offered
5 by an institution, including, but not limited to, any equipment.

6 94737.5. “Electronic” or “digital” signature means an electronic
7 sound, symbol, process, or protocol, including, but not necessarily
8 limited to, cryptographic techniques, attached to or logically
9 associated with a record or document and executed or adopted by
10 a person with the intent to sign the record or document, as for an
11 electronic document.

12 94738. “Employment” means any of the following:

13 (a) Full-time employment means employment for at least 32
14 hours per week for a period of at least 60 days in the occupations
15 or job titles to which the program of instruction is represented to
16 lead.

17 (b) Part-time employment means employment for at least 17.5
18 hours, but less than 32 hours, per week for a period of at least 60
19 days in the occupations or job titles to which the program of
20 instruction is represented to lead, provided the student completes
21 a handwritten statement at the beginning of the program and at the
22 end of the program that states that the student’s educational
23 objective is part-time employment. The institution shall not require
24 that any student complete such a statement or provide any
25 incentive, financial or otherwise, to any student for signing such
26 a statement.

27 94738.5. “Equipment” includes all textbooks, supplies,
28 materials, implements, tools, machinery, computers, electronic
29 devices, or any other goods related to any education, training, or
30 instruction, or an agreement for educational services or a course
31 of instruction.

32 94739. “Executive director” or “director” means the Executive
33 Director of the Board for Private Postsecondary Education.

34 94739.5. “Faculty” means an instructor or instructors within
35 any of the divisions or comprehensive branches of learning at a
36 college or university. For purposes of this chapter, “faculty,”
37 “instructor,” “professor,” and “teacher” are synonymous.

38 94740. “Funds” means cash or assets that can be converted
39 into cash within seven days. This definition relates to the financial

responsibility approval standard set forth in paragraph (1) of subdivision (c) of Section 94853.

94741. “Hearing” means a hearing pursuant to the requirements of this chapter.

94742. “Institution” means any private postsecondary educational institution that offers education that can lead to a degree. An “institution” includes its branch and satellite campuses, unless otherwise provided by the board.

94743. “Institutional approval” means an institution that has been evaluated by the board and has been found to be in compliance with the board’s standards pursuant to this chapter.

94744. “Instruction” includes any specific, formal arrangement by an institution or its enrollees to participate in learning experiences in which the institution’s faculty or contracted instructors present a planned curriculum appropriate to the enrollee’s educational program.

94745. “Licensure” includes any license, certificate, permit, or similar credential that a person is required to hold to lawfully engage in any occupation or activity.

94746. “Main location” or “main site” means the primary teaching location of the institution. If an institution operates at only one site, that site shall be considered its main location or main site.

94746.3. *“Non-WASC regional accrediting agency” means a regional accrediting agency other than the Western Association of Schools and Colleges, recognized by the United States Department of Education as possessing similar quality and rigor in accreditation standards, and limited to the following:*

(a) Middle States Association of Colleges and Schools, Commission on Higher Education.

(b) New England Association of Schools and Colleges, Commission on Institutions of Higher Education.

(c) North Central Association of Colleges and Schools, The Higher Learning Commission.

(d) Northwest Association of Schools and of Colleges and Universities, Commission on Colleges and Universities.

(e) Southern Association of Colleges and Schools, Commission on Colleges.

94746.5. *“Non-WASC regionally accredited institution” means a degree-granting institution that has been accredited by one of*

1 *the non-WASC regional accrediting agencies listed in Section*
2 *94746.3. It does not include any of the following:*

3 *(a) An institution within the meaning of subdivision (d) of*
4 *Section 94771 that has been accredited by the Accrediting*
5 *Commission for Senior Colleges and Universities or the*
6 *Accrediting Commission for Community and Junior Colleges of*
7 *the Western Association of Schools and Colleges.*

8 *(b) An institution that has provisional accreditation.*

9 *(c) An institution that has applied for accreditation.*

10 *(d) An institution that is identified by an accrediting agency as*
11 *a candidate for accreditation.*

12 94747. “Out-of-state school” means any private postsecondary
13 or vocational educational institution offering career or job training
14 programs, including both an in-residence institution and a distance
15 learning institution that has its place of instruction or its principal
16 location outside the boundaries of the state, or that offers or
17 conducts programs of instruction or subjects on premises
18 maintained by the school outside the boundaries of the state, or
19 that provides distance education or correspondence lesson materials
20 from a location outside the boundaries of this state, or that evaluates
21 completed lesson materials or otherwise conducts its evaluation
22 service from a location outside the boundaries of this state, or that
23 otherwise offers or provides California students with programs of
24 instruction or subjects through activities engaged in or conducted
25 outside the boundaries of the state.

26 94748. “Owner” means any person who has a legal or equitable
27 interest in 10 percent or more of an institution’s stock or assets.

28 94749. “Parent corporation” means a corporation that owns
29 more than 80 percent of the stock of the institution, the financial
30 resources of which are at issue.

31 94750. “Person” means a natural person or any business entity,
32 regardless of the form or organization.

33 94751. “Person in control” means a person who has sufficient
34 capacity, directly or indirectly, to direct or influence the
35 management, policies, or conduct of the institution so that the
36 person can cause or prevent violations of this chapter. There is a
37 rebuttable presumption affecting the burden of proof that an owner,
38 director, or officer of an institution is a person in control.

39 94752. “Physical presence” means an institution offering
40 postsecondary education courses in person, by correspondence, or

1 electronic media, to any California resident, including electronic
2 courses transmitted into the State of California. Physical presence
3 also means an institution operating any instructional site within
4 the borders of California for the purpose of offering postsecondary
5 educational activities, including a personal residence where
6 instruction is delivered through electronically-mediated distance
7 education, or an institution that employs in California any person
8 or persons for the purpose of administering, coordinating, teaching,
9 training, tutoring, counseling, advising, or any other activity on
10 behalf of the sponsoring organization.

11 (a) An instructional site includes all instruction provided in
12 person, electronically, through correspondence, by telephone or
13 facsimile. Physical presence shall also mean the maintenance or
14 advertisement of an administrative location in California, such as
15 a mailing address or post office box, for education related activities,
16 including, but not necessarily limited to, student recruitment,
17 advising, monitoring, study groups, and any other arrangement
18 that involves an organized group activity, composed of students
19 or prospective students, to include instruction, chat rooms,
20 seminars, or the administration of examinations.

21 (b) Representatives contracted or paid by institutions for the
22 purpose of conducting instructional or academic support activities
23 shall also be considered a physical presence in the State of
24 California.

25 (c) The institution has physical presence in California if it
26 delivers, or plans to deliver, instruction in California, and receives
27 assistance from any other organization within the state in delivering
28 the instruction, such as, but not necessarily limited to, a cable
29 television company or a television broadcast station that carries
30 instruction sponsored by the institution.

31 94753. “Placement rate” means the number and percentage of
32 students *of an institution* who complete their program and secure
33 employment in the field for which they were trained, *utilizing*
34 *knowledge or skills learned at that institution*.

35 94754. “Private postsecondary educational institution” means
36 any person doing business in California that offers to provide or
37 provides, for tuition, fee, or other charge, any instruction, training,
38 or education that awards academic credit under any of the following
39 circumstances:

1 (a) A majority of the students to whom instruction, training, or
2 education is provided during any 12-month period is obtained
3 from, or on behalf of, students who have completed or terminated
4 their secondary education or are beyond the age of compulsory
5 high school attendance.

6 (b) More than 50 percent of the revenue derived from providing
7 instruction, training, or education during any 12-month period is
8 obtained from, or on behalf of, students who have completed or
9 terminated their secondary education or are beyond the age of
10 compulsory high school attendance.

11 (c) More than 50 percent of the hours of instruction, training,
12 or education provided during any 12-month period is provided to
13 students who have completed or terminated their secondary
14 education or are beyond the age of compulsory high school
15 attendance.

16 (d) A substantial portion, as determined by the board, by
17 regulation, of the instruction, training, or education provided is
18 provided to students who have completed or terminated their
19 secondary education or are beyond the age of compulsory high
20 school attendance.

21 94755. “Program” or “program of instruction or study” means
22 a program of training, set of related courses, or education for which
23 a student enrolls.

24 94756. “Reporting period” means the institution’s fiscal year
25 or any year period designated by the board to be covered in the
26 institution’s annual report.

27 94757. “Representative” means any person who, for
28 compensation, does either of the following:

29 (a) Solicits, promotes, advertises, or refers or recruits students
30 or prospective students for an institution.

31 (b) Is involved with enrollment, admissions, student attendance,
32 administration, financial aid, instruction, or job placement
33 assistance on behalf of an institution.

34 94758. “Satellite” means an auxiliary classroom or a teaching
35 site. Student services, such as enrollment, advising, or placement,
36 shall not occur at a satellite location. All of the following apply to
37 a satellite:

38 (a) A satellite shall be physically located within 50 miles of an
39 institution’s main or branch location.

1 (b) Only educational services that are approved at the main
2 location shall be offered at the satellite.

3 (c) The institution shall maintain no permanent records of
4 attendance or academic progress at the satellite.

5 (d) Advertisement of a satellite shall indicate that the satellite
6 is an auxiliary classroom or a teaching site.

7 94759. "Secure employment" means employment starting
8 within six months of completing the program in the occupation to
9 which the program of instruction is represented to lead and
10 continuing in employment for a period of at least 60 days.

11 94760. "Site" means a main location, branch, or satellite
12 campus.

13 94761. "Teach-out" means an arrangement whereby an
14 institution offers to provide to a student, without any additional
15 charge, all of the instruction promised but not provided to that
16 student by a closed institution because of the closure.

17 94762. "Teach-out institution" means the institution offering
18 a teach-out.

19 94763. A "third-party payer" means an employer, government
20 program, or other payer that pays a student's total charges directly
21 to the institution when no separate agreement for the repayment
22 of that payment exists between the third-party payer and the
23 student.

24 94764. "To offer" includes, in addition to its usual meanings,
25 advertising, publicizing, soliciting, or encouraging any person,
26 directly or indirectly, in any form, to perform the act described.

27 94765. "To operate" an educational institution, or like term,
28 means to establish, keep, or maintain any facility or location in
29 this state where, or from or through which, educational services
30 are offered or educational degrees are offered or granted.

31 (a) Offering courses in person, by correspondence, or electronic
32 media, at any California location for degree credit, including
33 electronic courses transmitted into the State of California.

34 (b) Granting or offering to grant degrees in California for credit
35 obtained within or outside the state.

36 (c) Maintaining or advertising a California location, mailing
37 address, or telephone number for any purpose or any other function
38 of a degree-granting institution, other than contact with the
39 institution's former students for any legitimate purpose to their
40 having attended that institution.

1 94766. “Total charge” means the total charge for a course of
2 instruction or other education, instruction, or training, including
3 the charge for tuition, equipment, finance charges, and all other
4 fees, charges, costs, and expenses.

5 94767. “University” means an institution of higher education
6 that confers masters or doctorate degrees upon the completion of
7 programs of graduate or professional study.

8 94768. “WASC” means the *Western Association of Schools*
9 *and Colleges*.

10
11 Article 3. Exemptions
12

13 94770. It is the intent of the Legislature to carefully review the
14 exemptions in this article.

15 94771. The following are not considered to be private
16 postsecondary educational institutions under this chapter:

17 (a) Institutions exclusively offering instruction at any or all
18 levels from preschool through grade 12.

19 (b) Institutions offering education solely avocational or
20 recreational in nature, and institutions offering this education
21 exclusively.

22 (c) Institutions offering education sponsored by a bona fide
23 trade, business, professional, or fraternal organization, solely for
24 that organization’s membership.

25 (d) Postsecondary or vocational educational institutions
26 established, operated, and governed by the federal government or
27 by this state or its political subdivisions.

28 (e) Any public college, public university, public community
29 college, or public technical college or institute operating as part
30 of the public higher education system of this state.

31 (f) Any tribally controlled Native American college or
32 university.

33 (g) (1) Except as provided in paragraph (2), *an institution that*
34 *exclusively offers continuing education. As used in this subdivision,*
35 *“continuing education”* means instruction in any of the following
36 circumstances:

37 (A) Only in subjects that licensees are required to take as a
38 condition of continued licensure and solely for that purpose.

39 (B) Only in subjects necessary to continue to practice or work
40 in a profession such as law or medicine and solely for that purpose.

(C) To persons who are already in a particular profession, trade, or job category for the sole purpose of enhancing their skills or knowledge within that particular profession, trade, or job category.

(2) ~~“Continuing education” under this section~~ *As used in this subdivision, “continuing education”* does not include any of the following:

(A) Vocational diploma programs that are credit bearing.

(B) Degree courses or programs.

(C) An educational service any part of the charge for which is paid from the proceeds of a loan or grant subject to a governmental student financial aid program.

(D) Institutions offering continuing education where the institution or the program is approved, certified, or sponsored by any of the following:

~~(E)~~

(i) A government agency, other than the board, that licenses persons in a particular profession, trade, or job category.

~~(F)~~

(ii) A state-recognized professional licensing body, including, but not necessarily limited to, the State Bar of California, that licenses persons in a particular profession, trade, or job category.

~~(G)~~

(iii) A bona fide trade, business, or professional organization.

(h) An institution that limits its course of instruction to religion, theology, or preparation for a religious vocation, or is operated by a church or religious organization and limits its instruction to preparation for service to churches or other religious organizations. An institution exempted under this subdivision shall be established as a nonprofit institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code. The exemption provided by this subdivision is limited as follows:

(1) Instruction only in the beliefs, principles and practices of that church, religious denomination, or religious organization, or to courses offered pursuant to Section 2789 of the Business and Professions Code.

(2) The diploma or degree or honorary degree conferred is limited to evidence of completion of that education.

1 (3) Degrees awarded under this exception shall reflect the nature
2 of the degree, such as “Associate of Religious Studies” or
3 “Bachelor of Religious Studies,” or “Master of Divinity” or
4 “Doctor of Divinity,” and the curriculum content and objectives
5 shall reflect the strictly religious nature of the institution.

6 (A) Institutions operating under this paragraph shall not award
7 degrees in any area of physical science, philosophy, or the arts,
8 such as “associate of arts” or “associate of science,” “bachelor of
9 arts” or “bachelor of science,” “master of arts” or “master of
10 science,” or “doctor of philosophy” or “Ph.D.”

11 (B) The use of the degree titles “associate of arts” or “associate
12 of science,” “bachelor of arts” or “bachelor of science,” “master
13 of arts” or “master of science,” or “doctor of philosophy” or
14 “Ph.D.” shall only be awarded by institutions approved to operate
15 under Article 8 (commencing with Section 94950) or meeting the
16 requirements for an exemption under this section.

17 (4) Any degree granted in any area of study under this
18 subdivision shall contain on its face, in the written description of
19 the title of the degree being conferred, a reference to the theological
20 or religious aspect of the degree’s subject area.

21 (5) The meritorious recognition upon which any degree or
22 honorary degree is conferred is limited to the principles of that
23 church, religious denomination, or religious organization.

24 (6) An institution operating under this subdivision shall
25 participate in the Integrated Postsecondary Education Data System
26 (IPEDS) reporting system as directed by the board, and file
27 annually with the board evidence to demonstrate its status as a
28 nonprofit religious corporation under Part 4 (commencing with
29 Section 9110) of Division 2 of Title 1 of the Corporations Code.

30 (7) A religious institution that is granted an exception under
31 this subdivision shall clearly disclose in all institutional catalogs
32 and other official publications the following statement:

33 “The Board of Postsecondary Education of the State of California
34 has determined that (the name of the institution) qualifies for
35 religious exception status for the following programs: (list
36 programs). Any questions or problems concerning this school that
37 have not been satisfactorily answered or resolved by the school
38 should be directed to the Board for Private Postsecondary
39 Education, (address), Sacramento, California 95814.”

(8) The intent of the Legislature in enacting this subdivision is that the state should not involve itself in the content of degree programs awarded by any institution operating under this subdivision, as long as the institution awards degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization.

(9) Further, the intent of the Legislature in enacting this subdivision is to prevent any entity claiming to be a nonprofit institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization composed of multid denominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, from marketing and granting degrees or diplomas that are represented as being linked to their church, religious denomination, or religious organization, but that, in reality, are degrees in secular areas of study.

~~(i) Effective January 1, 2008, the Committee of Bar Examiners for the State of California shall be responsible for the approval, regulation, and oversight of degree-granting law schools that~~

~~(i) (1) Degree-granting law schools that exclusively offer education leading to a juris doctor (J.D.) degree, bachelor of laws (LL.B.) degree, or other law study degree, bachelor's, master's, or doctorate degrees in law, such as juris doctor. This paragraph does not apply to unaccredited law schools that remain~~ *On and after January 1, 2008, the Committee of Bar Examiners of the State Bar of California shall be responsible for the approval, regulation, and oversight of these law schools.*

(2) This subdivision does not apply to unaccredited law schools, which shall be subject to the jurisdiction of the board.

(j) (1) All institutions certified to offer flight instruction by the Federal Aviation Administration, and that operated in California on December 31, 2007, shall receive approval or registration from the board.

(A) On or before June 30, 2008, the board shall work in cooperation with the Federal Aviation Administration to review each of these institutions or registrants to determine whether each is in compliance with the requirements of this chapter.

1 (B) It is the intent of the Legislature that the board should
2 develop a memorandum of understanding with the Federal Aviation
3 Administration to delineate the responsibilities of each agency for
4 the approval and monitoring of these institutions or registrants.

5 (2) An institution or a registrant certified to offer flight
6 instruction by the Federal Aviation Administration, or its successor
7 agency, shall comply with all of the requirements of Article 6
8 (commencing with Section 94850), Article 10 (commencing with
9 Section 95050), and Article 13 (commencing with Section 95100),
10 but shall not be required to file any materials with the board that
11 are not required by the Federal Aviation Administration or its
12 successor agency, except those minimally necessary to administer
13 the Student Tuition Recovery Fund as determined by the board.
14 The responsibility for monitoring and enforcing compliance shall
15 be with the board.

16 (3) This chapter does not apply to individual flight instructors
17 not requiring any advance payments, who do not negotiate a formal
18 contract of indebtedness, and who do not have an established place
19 of business other than their residences.

20 (k) Nonprofit regionally accredited colleges and universities.
21 This subdivision does not include a college or university that offers
22 nondegree certificate programs to a majority of its students.

23 (l) *Institutions that exclusively offer programs that cost five*
24 *hundred dollars (\$500) or less.*

25
26 Article 4. Board for Private Postsecondary Education
27

28 94780. (a) There is hereby established a Board for Private
29 Postsecondary Education in the Department of Consumer Affairs.

30 (b) The board shall succeed to any and all rights and claims of
31 the former Council for Private Postsecondary and Vocational
32 Education, the former Bureau for Private Postsecondary and
33 Vocational Education within the Department of Consumer Affairs,
34 and the Department of Consumer Affairs that may have been
35 asserted in any judicial or administrative action commenced before
36 July 1, 2007, and shall take any action reasonably necessary to
37 assert and realize those rights and claims in its own name.

38 (c) The functions and staff of the former council and board, and
39 the responsibilities the former council and the board had for the
40 administration of former Chapter 7 (commencing with Section

1 94700) on June 30, 2007, and January 1, 2008, are transferred to
2 the board, effective January 1, 2008, as provided by this chapter.

3 (d) It is the intent of the Legislature that there be no gap in the
4 performance of functions or the administration of the law governing
5 private postsecondary educational institutions. Notwithstanding
6 any other provision of law, Section 19050.9 of the Government
7 Code shall apply regardless of the date on which former Chapter
8 7 (commencing with Section 94700) became inoperative or was
9 repealed.

10 94781. (a) (1) The board shall be composed of seven voting
11 members, ~~a majority of whom shall be representatives of the public.~~
12 The Governor shall appoint five members, *subject to confirmation*
13 *by vote of a majority of the membership of the Senate*, and the
14 Senate Committee on Rules and the Speaker of the Assembly shall
15 each appoint one member to the board.

16 (2) (A) *The members appointed to the board by the Governor*
17 *shall include each of the following:*

18 (i) *Two members with experience representing students of*
19 *institutions subject to this chapter.*

20 (ii) *One member with experience as a student, faculty member,*
21 *staff member, or administrator of a degree-granting institution*
22 *that is subject to this chapter.*

23 (iii) *One member with experience as a student, faculty member,*
24 *staff member, or administrator of a non-degree-granting institution*
25 *that is subject to this chapter.*

26 (iv) *One public member.*

27 (B) *The members appointed to the board by the Senate*
28 *Committee on Rules and the Speaker of the Assembly shall each*
29 *be public members.*

30 (b) Any member of the board may be removed by the appointing
31 power for neglect of duty, misconduct, or malfeasance in office,
32 after being provided with a written statement of the charges and
33 an opportunity to be heard.

34 (c) ~~No person who is currently or who has been in the last 12~~
35 ~~months employed by an institution of public or private~~
36 ~~postsecondary or vocational education, or by an organization~~
37 ~~owning an interest in a private postsecondary or vocational~~
38 ~~education institution, shall be appointed to, or serve on or serve~~
39 ~~as staff to, the board. The executive director of the office shall not~~
40 ~~be a member of the board.~~

1 ~~(d) Each~~

2 (c) (1) *Except as provided in paragraph (2), each member of*
3 *the board shall be appointed for a term of four years.*

4 (2) *Commencing January 1, 2008, the terms of the members of*
5 *the board shall be staggered as follows:*

6 (A) *The Governor shall designate one of the members that he*
7 *or she appoints to a term that expires on January 1, 2009. The*
8 *term of this member appointed by the Governor shall expire on*
9 *January 1, 2013, and thereafter, that term shall expire on January*
10 *1 every four years.*

11 (B) *The Governor shall designate two of the members that he*
12 *or she appoints to terms that expire on January 1, 2010. The terms*
13 *of these members appointed by the Governor shall expire on*
14 *January 1, 2014, and thereafter those terms shall expire on January*
15 *1 every four years.*

16 (C) *The Governor shall designate two of the members that he*
17 *or she appoints to terms that expire on January 1, 2011. The terms*
18 *of these members appointed by the Governor shall expire on*
19 *January 1, 2015, and thereafter those terms shall expire on January*
20 *1 every four years.*

21 (D) *The terms of the members initially appointed by the Senate*
22 *Committee on Rules and the Speaker of the Assembly shall expire*
23 *on January 1, 2012. Thereafter, the terms of the appointments*
24 *made by the Senate Committee on Rules and the Speaker of the*
25 *Assembly shall expire on January 1, 2016, and on January 1 every*
26 *four years.*

27 (3) *Any member may be reappointed to the board.*

28 ~~(e)~~

29 (d) *Each member of the board shall receive per diem and*
30 *expenses as provided in Section 103 of the Business and*
31 *Professions Code.*

32 94782. *Five members of the board shall constitute a quorum*
33 *for the transaction of business at any meeting. For the purpose of*
34 *transacting its business, the board shall meet at least once every*
35 *three months. The board shall keep, and easily make available to*
36 *the public, a record and minutes of all its proceedings.*

37 94783. *The board shall have the responsibility for approving*
38 *and regulating private postsecondary education institutions and*
39 *for enforcing state policies for private postsecondary education in*
40 *California. The board shall administer a fair, common sense, strong,*

1 and widely respected regulatory process over California's private
2 postsecondary education schools.

3 94784. (a) The board shall have possession and control of all
4 records, papers, offices, equipment, supplies, or other property,
5 real or personal, held for the benefit or use by the former council
6 *or by the former bureau* and the current board in the performance
7 of the duties, powers, purposes, responsibilities, and jurisdictions
8 that are vested in the board.

9 ~~(b) The Attorney General shall act as legal counsel for the board~~
10 ~~for any judicial and administrative proceedings, and is authorized~~
11 ~~to charge the board for his or her services.~~

12 *(b) The board shall, to the extent feasible, develop ongoing*
13 *enforcement guidelines and procedures, and coordinate its*
14 *enforcement activities, with the Attorney General.*

15 (c) It is the intent of the Legislature that enforcement be as
16 prescriptive and clear as possible and include consolidation of
17 enforcement provisions, timely resolution of pending complaints,
18 specified permissive fines and penalties for various violations, and
19 clear due process. Corrective action plans for violations should be
20 required with clear timelines.

21 ~~94785. The board shall appoint an advisory committee, which~~
22 ~~shall consist of representatives of institutions, student advocates,~~
23 ~~students, and employers who hire students, among other parties.~~
24 ~~The advisory committee shall be balanced to ensure that institutions~~
25 ~~and student advocates have approximate equal representation.~~
26 ~~Institutional representatives on the committee shall be in general~~
27 ~~proportion to the types of institutions approved pursuant to this~~
28 ~~chapter and to the number of students served by each type of~~
29 ~~institution. The advisory committee shall advise the board, the~~
30 ~~executive director, and board staff concerning the board's~~
31 ~~administrative, licensing, and enforcement functions under this~~
32 ~~chapter.~~

33 94785. (a) *The board shall appoint an advisory committee,*
34 *the members of which shall be selected through an application*
35 *process administered by the executive officer. The advisory*
36 *committee shall serve in an advisory role to the board with respect*
37 *to the administration of this chapter, policies and procedures of*
38 *the board, and public policy issues related to the responsibilities*
39 *of the board.*

1 ***(b) The membership of the advisory committee shall include,***
2 ***but not necessarily be limited to, all of the following:***

3 ***(1) Representatives of student advocates.***

4 ***(2) Representatives of institutions that are subject to this***
5 ***chapter.***

6 ***(3) The Attorney General or his or her designee.***

7 ***(4) Members of the Legislature or their designees.***

8 ***(5) Representatives of the workforce development community.***

9 ***(6) Representatives of the student financial aid community.***

10 ***(7) A representative of Region IX of the United States***
11 ***Department of Education.***

12 ***(c) The advisory committee shall meet periodically as needed,***
13 ***and as convened by the executive officer. Members of the advisory***
14 ***committee shall serve without compensation, but shall receive per***
15 ***diem and expenses as provided in Section 103 of the Business and***
16 ***Professions Code.***

17 ***(d) The advisory committee shall receive staff assistance from***
18 ***the board, and shall prepare an annual report to the board on its***
19 ***activities in the preceding year. The board shall submit copies of***
20 ***this report to the Governor and the Legislature.***

21 94786. Protection of the public shall be the highest priority for
22 the board in exercising its approval, regulatory, and disciplinary
23 functions. Whenever the protection of the public is inconsistent
24 with other interests seeking to be promoted, the protection of the
25 public shall be paramount.

26 94787. (a) The board shall appoint an executive director, who
27 shall be subject to approval of the Director of Consumer Affairs
28 and confirmation by vote of a majority of the membership of the
29 Senate. The board may delegate any authority to the executive
30 director in administering this chapter. Any power granted to, or
31 duty imposed upon, the board under this chapter may be exercised
32 or performed by the executive director in the name of the board,
33 subject to any conditions and limitations the board may prescribe.

34 (b) (1) The executive director is exempt from the State Civil
35 Service Act (Part 2 (commencing with Section 18500) of Division
36 5 of Title 2 of the Government Code).

37 (2) The executive director may redelegate any of those powers
38 or duties to his or her staff or designee.

39 (c) The executive director, in accordance with the State Civil
40 Service Act (Part 2 (commencing with Section 18500) of Division

1 5 of Title 2 of the Government Code), may appoint and fix the
2 compensation of clerical, inspection, investigation, evaluation, and
3 auditing personnel, as may be necessary to carry out this chapter.

4 (d) The board may authorize the executive director to do any
5 or all of the following:

6 (1) Plan, direct, supervise, and organize the work of the staff of
7 the board.

8 (2) Research, propose, and make policy recommendations
9 regarding postsecondary education issues to the board.

10 (3) Develop and implement regulations adopted by the board.

11 (4) Collect fees, issue approvals and permits, and investigate
12 complaints.

13 (5) Manage and administer funds and budgets according to *the*
14 board's directions.

15 (6) Report to the board regarding implementation of board
16 policies and responses to board activity.

17 (7) Represent the board, as appropriate, in public policy
18 discussions and to the public and media.

19 (8) Enter into written agreements with individual accrediting
20 agencies recognized by the United States Department of Education
21 that, after determining that the accrediting entities' standards are
22 substantially equivalent to those of the board, allows institutions
23 within their membership to apply to the board by means of
24 accreditation for approval to operate, pursuant to Article 8
25 (commencing with Section 94950).

26 94788. It is the intent of the Legislature that the board's
27 approval and regulating responsibilities be funded solely through
28 approval fees and federal funding provided to implement the
29 approval process for courses offered to veterans by approved
30 institutions.

31 94789. The board shall have all of the following functions and
32 responsibilities in its capacity as the statewide private
33 postsecondary educational planning and approval agency:

34 (a) Administration of this chapter.

35 (b) Enforcement of minimum criteria for the approval and
36 registration of private postsecondary or vocational educational
37 institutions to operate in California and award degrees and
38 diplomas, and for the approval of institutions that meet the criteria.

39 (c) Promulgation and enforcement of regulations to interpret
40 and implement this chapter pursuant to Chapter 3.5 (commencing

1 with Section 11340) of Part 1 of Division 3 of Title 2 of the
2 Government Code.

3 (d) The publication of an Internet directory of each private
4 postsecondary and vocational educational institution approved to
5 operate in California under this chapter.

6 (e) The impaneling of committees of persons determined by the
7 board to be technically qualified to assist the board in the
8 development of standards for education and educational institutions
9 and the evaluation of an application ~~or~~ *for* institutions pursuant to
10 this chapter. The members of the special committees shall receive
11 no compensation but shall be reimbursed for their actual expenses
12 for attendance at official meetings and actual expenses when on
13 official board business. The members of the special committees
14 shall serve at no expense to the state. The institution that is the
15 subject of inspection or investigation shall reimburse the actual
16 travel and per diem expenses incurred by each member of a
17 committee.

18 (f) (1) The board may design and administer a process for the
19 approval of courses offered to veterans, and for the approval and
20 supervision of the institutions offering courses to veterans, pursuant
21 to any applicable act of Congress and the regulations adopted
22 pursuant to such an act.

23 (2) For the purposes of this subdivision, the board:

24 (A) Is designated as the state approving agency for veterans'
25 institutions and veterans' courses, and is authorized to be
26 reimbursed for its services in this regard.

27 (B) Has the same powers conferred on the United States
28 Secretary of Education by Article 6 (commencing with Section
29 12090) of Chapter 1 of Part 8 of Division 1 of Title 1, to enter into
30 agreements and cooperate with the United States Department of
31 Veterans Affairs, or any other federal agency, regarding approval
32 of courses, and the approval and supervision of institutions that
33 offer courses to veterans.

34 (C) May adopt regulations that are necessary and appropriate
35 to exercise its authority under this subdivision.

36 94790. (a) For the purposes of administration and enforcement
37 of this chapter, the officers and employees of the board shall have
38 all the powers and authority granted under this chapter and under
39 Division 1 (commencing with Section 100) of, and Division 1.5

1 (commencing with Section 475) of, the Business and Professions
2 Code.

3 (b) The board shall establish a regular inspection program that
4 shall include, but is not *necessarily* limited to, unannounced
5 inspections.

6 (c) The board shall immediately investigate and respond to all
7 complaints and claims by students.

8 (d) If the board determines after an investigation that an
9 institution has violated this chapter or any of the regulations
10 adopted by the board, the board may do any of the following:

11 (1) Issue an administrative citation and impose an administrative
12 fine as authorized by, and in accordance with, Section 94963 or
13 Section 146, 147, or 148 of the Business and Professions Code.

14 (2) Issue an order of abatement or citation pursuant to Section
15 125.9 or 148 of the Business and Professions Code.

16 (3) Require the institution to prepare and implement a corrective
17 action plan that would include actions and a timeline for
18 completion.

19 (4) Require progress reports on the corrective action plan.

20 (5) Issue an order prohibiting the enrollment of new students.

21 (6) Initiate proceedings under the Administrative Procedure Act
22 or this chapter to revoke or suspend the institution's approval to
23 operate, or to place the institution on probation.

24 (7) With the consent of the institution, refer an adjudicative
25 proceeding to mediation, or binding or nonbinding arbitration, in
26 accordance with the regulations of the Office of Administrative
27 Hearings or the Office of the Attorney General.

28 (8) Order reimbursement of the costs of the investigation and
29 enforcement in accordance with Article 12 (commencing with
30 Section 95070) or Section 125.3 of the Business and Professions
31 Code. An institution shall not be required to pay the same costs
32 and expenses to more than one investigating entity.

33 (9) Notify a telephone company to disconnect the institution's
34 telephone as authorized by Section 149 of the Business and
35 Professions Code.

36 94791. (a) Any person, serving on a committee of the board,
37 a visiting committee pursuant to Section 94956, or any other peer
38 review body impaneled by the board and who provides information
39 to the board or its staff in the course and scope of evaluating any
40 institution or registrant subject to this chapter or who testifies at

1 any administrative hearing arising under this chapter, is entitled
2 to a defense by, and indemnification from, the board to any action
3 arising out of information or testimony to the board that person
4 would have if he or she were a public employee.

5 (b) Any defense by, or indemnification from, the board, as
6 specified in subdivision (a) shall be solely with respect to that
7 claim or action pursuant to Article 4 (commencing with Section
8 825) of Chapter 1 of Part 2 of, and Part 7 (commencing with
9 Section 995) of, Division 3.6 of Title 1 of the Government Code.

10 94792. Each member of the board shall disclose all ex parte
11 communications from any parties having an issue before the board.
12 These disclosures shall be made public and included in minutes
13 of board meetings.

14 94793. The board shall make available to members of the
15 public, on its Internet Web site and through other appropriate
16 means, the nature and disposition of all complaints on file with
17 the board against an institution or registrant.

18 94794. (a) The board shall work together with staff of the
19 CPEC and higher education legislative committees, along with
20 representatives of regulated institutions, the Student Aid
21 Commission, students, and other interested parties to revise this
22 chapter to streamline its provisions and eliminate contradictions,
23 redundancies, ambiguities, conflicting provisions, and unnecessary
24 provisions. Within the first 12 months from the date when the
25 powers, authorities and responsibilities in this chapter are
26 transferred to the board, the board shall make recommendations
27 to the Legislature regarding all of the following:

28 (1) The progress of the state's utilization of national and regional
29 accreditation as part of the state approval process.

30 (2) The development of a cost-based fee structure for institutions
31 subject to Article 8 (commencing with Section 94950).

32 (3) The status of the Attorney General's implementation of an
33 efficient and effective enforcement program.

34 (b) The board shall objectively assess the cost of meeting its
35 statutory obligations, determine the staffing necessary to meet
36 those obligations, determine whether the current fee structure
37 allows for collection of revenue sufficient to support the necessary
38 staffing, and report that information to the Governor through the
39 annual budget process.

1 (c) The board shall incorporate and continuously monitor its
2 data collection, dissemination, and information systems into
3 CPEC's data system as the state's designated higher education
4 data coordinator and information clearinghouse, so that it will
5 provide improved reporting of information regarding the private
6 postsecondary education sector, and improved monitoring of
7 reports, initial and renewal applications, complaint and enforcement
8 records, and collection of fees among other information necessary
9 to serve the board's wide-ranging data management needs
10 effectively. The board shall continue to make improvements to its
11 data collection and dissemination systems to meet its program
12 responsibilities.

13 (d) All institutions covered by this statute shall participate in
14 the Integrated Postsecondary Education Data System (IPEDS)
15 reporting system. This participation shall be a condition of
16 approval, and shall be monitored by the board.

17 (e) All institutions covered by this statute shall inform the board
18 of their participation in other locally-funded, state-funded, or
19 federally-funded programs that assess the effectiveness of those
20 institutions' programs including, but not necessarily limited to,
21 programs funded by the federal Workforce Investment Act (29
22 U.S.C. Sec. 2801 et seq.) and the federal Americans with
23 Disabilities Act (42 U.S.C. Sec. 12101 et seq.).

24 (f) *The board shall, to the extent feasible, enter into reciprocal*
25 *agreements with accrediting agencies for the exchange of pertinent*
26 *information about institutions.*

27 94795. (a) The board shall establish an expanded outreach
28 program for prospective and current private postsecondary
29 education students and high school students, to provide them with
30 information on how best to select postsecondary or vocational
31 schools, how to enter into contracts and student enrollment
32 agreements, how to protect themselves in the postsecondary and
33 vocational education marketplace, and how to contact the
34 commission for assistance if problems arise.

35 (b) The board shall establish quarterly workshops for the purpose
36 of providing applicants and institutions information on application
37 processes, best practices for offering postsecondary educational
38 services, and may include any other subjects that encompass vast
39 number of topics that affect postsecondary education.

1 94796. Any degree-granting institution operating on December
2 31, 2007, with a full, conditional, or temporary approval to operate,
3 may continue to operate under the terms of that approval until that
4 approval to operate expires or a subsequent action is taken by the
5 board that affects that approval to operate, whichever comes first.

6 94797. Any nondegree-granting institution operating on
7 December 31, 2007, with a *an* approval to operate, may continue
8 to operate, under the terms that *the* approval to operate expires or
9 a subsequent action is taken by the board that affects that approval
10 to operate, whichever comes first.

11 94798. The board shall adopt a strategic plan by December 31,
12 2008, and update the plan periodically as needed. The plan shall
13 address all issues relative to regulation of California's private
14 postsecondary and vocational education institutions through a
15 means that provides full protection of students and high quality
16 education, through a reasonable and appropriate regulatory process
17 that is nonburdensome for the industry. This shall also include
18 statewide and regional coordination with school districts, trade
19 and industrial associations, workforce investment boards, the
20 Employment Development Department, and others to ensure that
21 institutions are producing graduates that meet the needs of business
22 and have a higher likelihood of finding gainful employment in
23 their chosen area of study.

24 94799. All meetings of the board shall be subject to the
25 Bagley-Keene Open Meeting Act (Article 9 (commencing with
26 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
27 the Government Code).

28 94800. The board shall adopt performance standards, post that
29 information on its Web site, and provide this same information to
30 the Department of Consumer Affairs, the Department of Finance,
31 the Legislative Analyst's Office, and the Legislature annually
32 through the budget process.

33 94801. The board shall maintain a state-of-the-art Internet Web
34 site that shall include all of the following:

- 35 (a) A list of approved schools.
- 36 (b) The *license number, and the* status of the license for each
37 school.
- 38 (c) Disciplinary actions.

1 (d) Anecdotal stories to illustrate to a student the information
2 he or she should seek out to limit the risks undertaken in enrolling
3 in a school.

4 (e) Hyperlinks to related public services available to students
5 and required consumer protections.

6 94802. The board shall provide an annual report to the
7 Legislature and *the* Governor on the board's activities in
8 implementing this chapter.

9 94803. The board shall adopt, and periodically review and
10 update, internal quality review and audit procedures to ensure that
11 processes are in place to promote and achieve full compliance with
12 ~~the~~ this chapter.

13 ~~94804. (a) Before January 1, 2011, the Assembly Committee~~
14 ~~on Higher Education and the Senate Education Committee shall~~
15 ~~hold joint public hearings to review the implementation of this~~
16 ~~chapter.~~

17 ~~(b) If, as a result of the joint hearings, the Assembly Committee~~
18 ~~on Higher Education and the Senate Education Committee jointly~~
19 ~~determine that there are problems with the implementation of this~~
20 ~~chapter sufficient to justify the reconstitution of the board, the~~
21 ~~terms of the members as of the date of that determination shall~~
22 ~~end, and the appointing entities under Section 94771 may appoint~~
23 ~~new members to the board in accordance with that section.~~

24 ~~(c) An appointing entity under Section 94771 may reappoint a~~
25 ~~member of the board whose term is ended under subdivision (b);~~
26 ~~in accordance with Section 94771.~~

27 ~~(d) A member of the board whose term is ended under~~
28 ~~subdivision (b) may continue to serve until a new member is~~
29 ~~appointed for that position in accordance with subdivision (b).~~

30 94805. *The board shall develop application forms that are*
31 *clear, concise, available online, and capable of being filed*
32 *electronically.*

33 94806. *The board shall review all initial applications for*
34 *licensure and applications for renewal of licensure in accordance*
35 *with all of the following:*

36 *(a) The board shall review an application for renewal within*
37 *30 days of receipt, and shall notify the applicant of receipt of the*
38 *application and whether the application is complete.*

1 ***(b) If the application for renewal is incomplete, the board shall***
2 ***notify the applicant of the information that is missing and give the***
3 ***applicant 30 days to provide the additional information.***

4 ***(c) If the additional information is not received by the board***
5 ***within 30 days, the application shall be deemed by the board to***
6 ***be withdrawn. If this occurs, the board shall send a notice to the***
7 ***applicant that the board will take no action on this application,***
8 ***as it is deemed to have been withdrawn. The applicant may***
9 ***subsequently submit a new application at any time.***

10 ***(d) The board shall review, and act upon, all completed***
11 ***applications within 90 days of receipt of a completed application.***

12 ***(e) The board shall develop and establish forms and procedures***
13 ***pursuant to which applications and notices may be submitted to,***
14 ***and reviewed by, the board.***

15 ***94807. The board shall develop and promulgate regulations***
16 ***that may include, but need not be limited to, regulations for all of***
17 ***the following purposes:***

18 ***(a) To delineate clear and concise criteria to be applied when***
19 ***determining for which tier a school is qualified and determining***
20 ***whether a school may be moved from one tier to another.***

21 ***(b) To establish fines for various violations of this chapter.***

22 ***(c) To delineate clear and concise criteria to be applied when***
23 ***determining whether a school may be provided a probationary***
24 ***license.***

25
26 Article 5. Fees and Costs
27

28 ***94820. (a) The Private Postsecondary and Vocational***
29 ***Education Administration Fund is continued in existence. All fees***
30 ***collected pursuant to this chapter shall be credited to this fund***
31 ***along with any interest on the money, for the administration of***
32 ***this chapter. The money in the fund shall be appropriated annually***
33 ***in the Budget Act for the purposes of this chapter.***

34 ***(b) A minimum of 50 percent of the funds appropriated to the***
35 ***board shall be used to cover the costs of enforcing all of the***
36 ***following:***

37 ***(1) Enforcing this chapter by taking actions against violators,***
38 ***while ensuring due process for all institutions.***

39 ***(2) Ensuring that independent onsite evaluations and random***
40 ***and targeted inspections and audits of institutions are conducted,***

1 and that students have easy access to information concerning their
2 rights to contract cancellation, withdrawal, refunds, and remedies.

3 (3) Mediating student complaints to achieve balanced outcomes
4 for students and institutions.

5 (c) (1) For the approval of private institutions operating under
6 this chapter, the board shall charge an amount not to exceed the
7 actual costs of approving or renewing the approval of the private
8 institutions.

9 (2) The board may add or delete categories of fees related to
10 work performed by the board and the maximum amount to be
11 charged for each fee category added to the fee schedule. The fee
12 schedule shall provide adequate resources, including an annual
13 inflation adjustment, for the board to implement this chapter
14 effectively. The board shall annually present its proposed budget
15 and fee schedule, penalty fees assessed for delinquent payments,
16 and additions and deletions of fee categories to the Department of
17 Finance and the Joint Legislative Budget Committee for their
18 review and approval as part of the annual budget process.

19 (3) The board shall annually publish a schedule of the current
20 fees to be charged pursuant to this section, and shall make this
21 schedule generally available to the public. These fees may be
22 increased annually, without any additional review and approval
23 by the Office of Administrative Law.

24 (d) The fee schedule established under Section 94824 shall take
25 effect on January 1, 2008, and shall be retained for the first 12
26 months of operation of the board. The board shall report to the
27 Governor and the Legislature by December 31, 2008, on this
28 schedule, and make recommendations on the further development
29 and implementation of a cost-based fee structure.

30 94821. Any institution or registrant more than 30 days
31 delinquent in the payment of any fee or order for the recovery of
32 costs and expenses under Section 95102, may be assessed a penalty
33 fee by the board.

34 94822. (a) If the board determines after an investigation that
35 an institution or registrant has violated this chapter, the board may
36 order the institution or registrant to pay the costs and expenses
37 incurred in connection with the investigation and any civil or
38 administrative proceeding involving the violation that was
39 investigated, including charges made by the Attorney General for
40 his or her services, and any expenses incurred by a district attorney.

1 Before any order for the payment of costs and expenses is made
2 under this section, the board shall provide a written notice,
3 including notice of the institution's right to request a hearing within
4 15 days of service of the notice.

5 (b) If a hearing is not timely requested, the board may order
6 payment. If a hearing is requested, the board shall comply with
7 Article 10 (commencing with Section 95050). Within 30 days after
8 the effective date of the order, the board may enforce the order as
9 if it were a money judgment pursuant to Title 9 (commencing with
10 Section 680.10) of Part 2 of the Code of Civil Procedure.
11 Alternatively, the board may seek the costs and expenses allowed
12 under this section in a civil proceeding. An institution or registrant
13 shall not be required to pay the same costs and expenses incurred
14 in connection with the investigation and any civil or administrative
15 proceeding to more than one investigating agency.

16 ~~94823. The effective date of any statutory amendment to this~~
17 ~~chapter affecting revenues payable to the board from any service~~
18 ~~shall be immediate.~~

19 94824. Effective January 1, 2008, the board shall charge the
20 following fees:

21 (a) ____.

22 (b) ____.

23 (c) ____.

24 94825. The board may annually adjust the schedule set forth
25 in Section 94824 to reflect changes in the consumer price index,
26 and shall maintain and implement an updated fee schedule on at
27 least a biennial basis thereafter. The new and subsequent fee
28 schedules shall include consideration of actual and projected
29 enforcement costs of the board in administering this chapter.
30

31 *Article 5.5. Minimum Requirements for All Institutions*

32
33 94830. *An institution shall not divide or structure a program*
34 *of instruction so as to avoid the application of a provision of this*
35 *chapter.*

36 94830.3. *An institution approved under this chapter shall be*
37 *maintained and operated, or shall demonstrate that it will be*
38 *maintained and operated, in compliance with the following*
39 *minimum standards:*

1 (a) The institution shall be financially capable of fulfilling its
2 commitments to its students.

3 (b) The institution shall, upon satisfactory completion of
4 training, ensure that each student is given an appropriate degree,
5 diploma, or certificate by the institution, indicating that the course
6 or courses of instruction or the program or programs of instruction
7 or study have been satisfactorily completed by the student.

8 (c) The institution shall provide sufficient instruction pursuant
9 to a planned curriculum appropriate to each student's educational
10 program.

11 (d) The institution shall provide each student with sufficient
12 materials, including current publications and equipment, not later
13 than the time the materials are appropriate for use in the course
14 of instruction.

15 (e) The institution shall maintain sufficient student attendance,
16 progress, and performance standards to reasonably ensure that
17 students acquire the education, training, skill, and experience that
18 the program is represented to provide.

19 94830.5. (a) An institution shall post on its Web site and
20 provide to a prospective student a school performance fact sheet
21 that discloses all of the following information:

22 (1) The number and percentage of students who began the
23 institution's program and successfully completed the entire
24 program for the preceding calendar year. The rate shall be
25 calculated by determining the percentage of students enrolled in
26 the program who were originally scheduled, at the time of
27 enrollment, to complete the program in that calendar year and
28 who successfully completed the program. This information shall
29 be documented and maintained by the institution with all facts
30 needed to substantiate the information.

31 (2) If the institution makes a claim to prospective students
32 regarding the license exam passage rates of its graduates, it shall
33 disclose the passage rates of graduates from the program for the
34 most recent calendar year that ended not less than six months prior
35 to the date of disclosure on any licensure or certificate examination
36 required by the state for employment in the particular vocational,
37 trade, or career field for which data are available.

38 (3) For programs offering a degree or diploma program
39 designed to prepare students for a particular vocational, trade,
40 or career field, the number and percentage of students who began

1 *the program and secured employment in the field for which they*
2 *were trained. In calculating this rate, the institution shall consider*
3 *as not having obtained employment, any graduate for whom the*
4 *institution does not possess evidence, documented in his or her*
5 *file, showing that he or she has obtained employment in the*
6 *vocational, trade, or career field for which the program is offered.*

7 *(4) If the institution makes a claim to prospective students*
8 *regarding the starting salaries of its graduates or the starting*
9 *salaries or local availability of jobs in a field, the average annual*
10 *starting wages or salary of graduates of the institution's program.*
11 *This information shall be documented and maintained by the*
12 *institution with all facts needed to substantiate the information.*

13 *(b) If a program is too new to provide data for any of the*
14 *categories listed in subdivision (a), the institution shall state on*
15 *its Web site and fact sheet provided to each prospective student*
16 *that it is too new to provide the information.*

17 *(c) Information regarding a student's employment shall be based*
18 *on an inquiry by the institution, and shall be documented by a list*
19 *indicating the student's name, address, and telephone number;*
20 *the employer's name, address, and telephone number; the name*
21 *and address or telephone number of the person who provided the*
22 *information regarding the student's employment to the institution;*
23 *the name, title, or description of the job; the date the student*
24 *obtained the job; the duration of the student's employment; and*
25 *the amount of the salary, if any salary claim has been made. This*
26 *information may be provided by the student or employer.*
27 *Notwithstanding any other provision of this chapter, an institution*
28 *may not disclose the personal student records maintained pursuant*
29 *to this section unless production of those records is required by a*
30 *statute or by subpoena or court order.*

31 *(d) Acknowledgment of the fact sheet required by this section*
32 *shall be signed by the institution and the student and be dated.*
33 *The institution shall include on the fact sheet a statement that*
34 *describes how the calculations were reached and what assumptions*
35 *and information were used to obtain the calculations and*
36 *disclosures required by this section. If the solicitation or*
37 *negotiation leading to the agreement for a course of instruction*
38 *was in a language other than English, the disclosures shall be in*
39 *that other language.*

1 (e) Notwithstanding any other provision of this section, an
2 institution offering a home study or correspondence course, or
3 electronic or digital means of providing instruction, need not orally
4 make the disclosures required by this section in connection with
5 that course if the institution did not orally solicit or recruit the
6 student for enrollment and the student enrolled by mail.

7 94830.7. (a) An institution shall provide, to each prospective
8 student for a degree, diploma, or certificate program, a statement
9 on a separate piece of paper in at least 12-point type that contains
10 the following statement: “NOTICE CONCERNING
11 TRANSFERABILITY OF UNITS AND DEGREES EARNED AT
12 OUR SCHOOL.

13 “Units you earn in our ____ (fill in name of program) program
14 MAY NOT be transferable to another college or university. For
15 example, if you entered our school as a freshman, you may still
16 be a freshman if you enter another college or university at some
17 time in the future, even though you earned units here at our school.
18 In addition, if you earn a degree, diploma, or certificate in our
19 ____ (fill in name of program) program, it MAY NOT serve as a
20 basis for obtaining a higher level degree at another college or
21 university. Acceptance of credits and degrees is subject to the
22 discretion of the institution that the student wishes to transfer to.
23 Students are encouraged to check with those institutions to
24 determine whether or not the credits and degrees earned at our
25 school will be transferable.”

26 (b) The disclosures required by subdivision (a) shall be signed
27 by the institution and the student and shall be dated.

28 (c) If the solicitation or negotiation leading to the agreement
29 for a course of instruction was in a language other than English,
30 the disclosures required by subdivision (a) shall be in that other
31 language.

32 94831. Before a person executes an agreement obligating that
33 person to pay any money to an institution for a program of
34 instruction or related equipment, the institution shall do all of the
35 following:

36 (a) Provide or disclose to that person a copy of the enrollment
37 agreement containing, at a minimum, the information required by
38 Section 94832.

39 (b) Provide to that person a clear statement, written in English,
40 containing its refund policy, together with examples of the

1 application of the policy, and a description of the procedures that
2 a student is required to follow to cancel the contract or agreement
3 and obtain a refund. If the institution solicited the student or
4 negotiated the agreement in a language other than English, the
5 statement shall be in that same language. The institution shall also
6 make its refund policy known to currently enrolled students.

7 (c) (1) Provide a copy of a current schedule of all student
8 charges and a statement of the purpose for those charges. The
9 schedule shall clearly indicate, and differentiate between, all
10 mandatory and optional student charges, and shall specify the
11 total costs of attendance which shall include, but not necessarily
12 be limited to, tuition, fees, assessments for the Student Tuition
13 Recovery Fund, equipment costs, housing, transportation, books,
14 necessary supplies, materials, shop and studio fees, food,
15 miscellaneous personal expenses, and any other fees and expenses
16 that the student will incur upon enrollment. The schedule shall
17 clearly identify all charges and deposits that are nonrefundable.
18 The schedule shall also contain both of the following:

19 (A) A statement, to be provided by the board, specifying that it
20 is a state requirement that a resident California student who pays
21 his or her own tuition, either directly or through a loan, is required
22 to pay a state-imposed fee for the Student Tuition Recovery Fund.

23 (B) A statement, to be provided by the board, describing the
24 purposes, operation, and eligibility requirement of the Student
25 Tuition Recovery Fund.

26 (2) An institution shall not advertise costs that are less than
27 those recommended by the Student Aid Commission in its annual
28 statement of recommended student expense budgets, unless the
29 cost as advertised is reflective of a direct charge by the institution,
30 in which case the cost shall be advertised as actual.

31 (d) If a state board, board, department, or agency has
32 established the minimum number of classes or class hours or the
33 minimum criteria of a course of instruction necessary for licensure
34 in an occupation and an institution offers a course of instruction
35 differing from the state entity's minimum requirements, the
36 institution shall disclose orally and in writing the state entity's
37 minimum requirements and how the course of instruction differs
38 from those criteria. If the institution or a representative of the
39 institution in any manner represents that the program of instruction
40 might lead to employment in an occupation or job title for which

1 a state licensing examination is required, the institution shall
2 disclose all licensure or certification requirements established by
3 the state for the occupation or job title category.

4 (e) Disclose in writing that if the student obtains a loan to pay
5 for the course of instruction, the student will have the responsibility
6 to repay the full amount of the loan plus interest, less the amount
7 of any refund.

8 (f) Disclose in writing that if the student is eligible for a loan
9 guaranteed or reinsured by the state or federal government and
10 the student defaults on the loan:

11 (1) The federal or state government or the loan guarantee
12 agency can take action against the student, including applying any
13 income tax refund to which the person is entitled to reduce the
14 balance owed on the loan.

15 (2) The student may not be eligible for any other federal
16 financial assistance for education at a different school or for
17 government housing assistance until the loan is repaid.

18 (g) Disclose in writing that the institution is not a public
19 institution.

20 (h) Disclose in writing whether or not the institution has filed,
21 or has had filed against it, a petition in bankruptcy.

22 94831.3. (a) An institution shall provide to students and other
23 interested persons, prior to enrollment, a catalog or brochure
24 containing, at a minimum, all of the following information:

25 (1) Descriptions of the instruction provided under each course
26 offered by the institution including the length of programs offered,
27 and all of the occupations or job titles, if any, to which the program
28 of instruction is represented to lead.

29 (2) The number of credit hours or clock hours of instruction or
30 training per unit or units required for completion of the educational
31 degree or certificate program.

32 (3) The attendance, dropout, and leave-of-absence policies.

33 (4) The faculty and their qualifications.

34 (5) The schedule of tuition payments, fees, and all other charges
35 and expenses necessary for the term of instruction and the
36 completion of the course of study.

37 (6) The cancellation and refund policies.

38 (7) For institutions that participate in federal and state financial
39 aid programs, all consumer information that the institution is
40 required to disclose to the student.

1 (8) *A description of a student's rights under the Student Tuition*
2 *Recovery Fund.*

3 (b) *A written contract signed by a student is not enforceable*
4 *unless the student has first received the institution's catalog or*
5 *brochure containing the information required by this section.*

6 94831.5. (a) *In addition to making any other required*
7 *disclosures, a representative of an institution who in any manner*
8 *solicits or recruits any person in person at any place other than*
9 *the institution's premises, or by telephone, for enrollment in a*
10 *course of instruction shall disclose all of the following, orally,*
11 *and, if the solicitation is in person, in a correctly dated written*
12 *document given to the person and printed in at least 10-point type*
13 *and signed by the representative:*

14 (1) *That the representative is a paid recruiter for an institution*
15 *and the institution is not a public school.*

16 (2) *That the representative is not offering a job, making job*
17 *referrals, or conducting a survey.*

18 (3) *That there is no guarantee of a job after a student graduates*
19 *from the course of instruction.*

20 (4) *The total charge for the course of instruction or, if the*
21 *solicitation or recruitment is for more than one course, the range*
22 *of the total charges for the courses offered.*

23 (b) *The representative shall make the disclosures required by*
24 *paragraphs (1) to (3), inclusive, of subdivision (a) before*
25 *attempting to solicit or recruit any person. The representative shall*
26 *make the disclosure required by paragraph (4) of subdivision (a)*
27 *before the end of a solicitation or attempt to recruit any person.*

28 (c) *A representative who solicits or recruits any person as*
29 *described in subdivision (a) shall, prior to enrollment, provide the*
30 *person with a copy of the institution's current catalog or brochure,*
31 *containing the information, in clear and conspicuous form,*
32 *accessible online and by other means, described in Section*
33 *94831.3, which the person may obtain without charge. The*
34 *institution or its representative shall provide the catalog or*
35 *brochure required by this subdivision at the time of an in-person*
36 *solicitation or recruitment or send the catalog brochure within*
37 *two days of a telephonic solicitation or recruitment.*

38 (d) *No institution shall enter into an agreement for a course of*
39 *instruction with, or prepare or assist in preparation of a student*
40 *loan or grant application for, a person solicited or recruited as*

1 *described in subdivision (a) within three days of the date on which*
2 *the person was solicited or recruited.*

3 *(e) This section does not apply to solicitations or presentations*
4 *made at informational public appearances directed to five or more*
5 *people or to advertisements in print or broadcast media.*

6 *94832. An institution may not offer a program of instruction*
7 *to a person, or receive consideration from a person, except*
8 *pursuant to a written contract or agreement that is signed by both*
9 *parties, including the student, that meets the requirements of this*
10 *section. A written contract or agreement for educational services*
11 *with an institution shall include all of the following:*

12 *(a) On the first page of the agreement or contract, in 12-point*
13 *boldface print or larger, the following statement: “Any questions*
14 *or problems concerning this school which have not been*
15 *satisfactorily answered or resolved by the school should be directed*
16 *to the Board for Private Postsecondary Education,” and include*
17 *the current mailing address, Web site address, and telephone and*
18 *fax numbers for the board.*

19 *(b) In underlined capital letters on the same page of the contract*
20 *or agreement in which the student’s signature is required, the total*
21 *amount that the student is obligated to pay for the course of*
22 *instruction and all other services and facilities furnished or made*
23 *available to the student by the school, including any charges made*
24 *by the school for tuition, room and board, books, materials,*
25 *supplies, shop and studio fees, and any other fees and expenses*
26 *that the student will incur upon enrollment.*

27 *(c) A schedule of payments and charges, including a list of any*
28 *charges and deposits that are nonrefundable, clearly identified as*
29 *nonrefundable charges.*

30 *(d) The name and address of the school and the addresses where*
31 *instruction will be provided.*

32 *(e) The name and description of the program of instruction,*
33 *including the total number of credits, classes, hours, or lessons*
34 *required to complete the program of instruction.*

35 *(f) A clear and conspicuous statement that the agreement or*
36 *contract is a legally binding instrument when signed by the student*
37 *and accepted by the school.*

38 *(g) A clear and conspicuous caption, “BUYER’S RIGHT TO*
39 *CANCEL” under which it is explained that the student has the*
40 *right to cancel the enrollment agreement and obtain a refund, the*

1 *form and means of notice that the student should use in the event*
2 *that he or she elects to cancel the enrollment agreement, and the*
3 *title and address of the school official to whom the notice should*
4 *be sent or delivered.*

5 *(h) A clear statement of the refund policy written in plain*
6 *English.*

7 *(i) The signature of the student under the following statement*
8 *that is presented in 12-point boldface or larger print: “My*
9 *signature below certifies that I have read, understood, and agreed*
10 *to my rights and responsibilities, and that the institution’s*
11 *cancellation and refund policies have been clearly explained to*
12 *me.”*

13 *(j) If the student is not a resident of California or is the recipient*
14 *of third-party payer tuition and course costs, such as workforce*
15 *investment vouchers or rehabilitation funding, a clear statement*
16 *that the student is not eligible for protection under and recovery*
17 *from the Student Tuition Recovery Fund.*

18 *(k) A statement that the student is responsible for paying the*
19 *state assessment amount for the Student Tuition Recovery Fund.*

20 *94832.1. A contract or enrollment agreement signed by a*
21 *student shall be written in language that is capable of being easily*
22 *understood. If English is not the primary language spoken by the*
23 *student, the student shall have the right to obtain a clear*
24 *explanation of the terms and conditions of the agreement and all*
25 *cancellation and refund policies in his or her primary language.*

26 *94832.2. A written contract or agreement signed by a*
27 *prospective student may not become operative until the student*
28 *attends the first class or session of instruction. This section does*
29 *not apply to correspondence schools or other distance-learning*
30 *programs.*

31 *94832.3. If a student is a client of a third-party organization*
32 *and that organization pays all of the student’s tuition and fees, the*
33 *institution may substitute, for the contract or enrollment agreement*
34 *required by subdivision (a) of Section 94832, a form provided to*
35 *the student that contains the information required by this section.*
36 *The form shall also include a statement that students whose entire*
37 *tuition and fees are paid by a third-party organization are not*
38 *eligible for payments from the Student Tuition Recovery Fund.*

39 *94832.4. A provision in an agreement that purports to require*
40 *a student to invoke a grievance dispute procedure established by*

1 *the institution before enforcing a right or remedy is void and*
2 *unenforceable.*

3 94832.5. *The board shall have the authority to standardize the*
4 *format of the enrollment agreement by regulation.*

5 94833. (a) *An institution shall maintain adequate and accurate*
6 *records relating to attendance, progress, and performance for at*
7 *least five years.*

8 (b) *An institution shall maintain current records for a period*
9 *of not less than five years at its principal place of business in this*
10 *state, showing the following:*

11 (1) *The name, telephone numbers, and addresses, both local*
12 *and home, of each of its students.*

13 (2) *The programs of study offered by the institution.*

14 (3) *The names and addresses of its faculty, together with a*
15 *record of the educational qualifications of each.*

16 (4) *The degrees or diplomas granted, the date of granting,*
17 *together with the curricula upon which the diplomas and degrees*
18 *were based.*

19 (c) *All records that an institution is required to maintain by this*
20 *chapter or that relate to an institution's compliance with this*
21 *chapter shall be made immediately available by the institution for*
22 *inspection and copying during normal business hours, upon*
23 *request, by the board, the Attorney General, any district attorney*
24 *or city attorney, and the Student Aid Commission.*

25 94833.3. *An institution shall make available to a student, or a*
26 *person designated by a student, all of that student's records, with*
27 *the following exceptions:*

28 (a) *As provided in Section 94837.5, an institution may withhold*
29 *a student's transcript or grades if that student is in default on a*
30 *student tuition contract.*

31 (b) *If the student has made partial payment of his or her tuition*
32 *obligation, the institution may withhold only that portion of the*
33 *grades or transcript that corresponds to the amount of tuition or*
34 *loan obligation that the student has not paid. If the course of study*
35 *consists of only one course, the institution may withhold the grades*
36 *or the transcript until the tuition or loan obligation is paid in full.*

37 94833.5. (a) *An institution shall not be considered financially*
38 *responsible under any of the following conditions:*

39 (1) *The institution fails to have available sufficient funds and*
40 *accounts receivable to pay all operating expenses due within 30*

1 days. For the purposes of this subdivision, “funds” means cash
2 or assets that can be converted into cash within seven days.

3 (2) Under generally accepted accounting principles, the
4 institution had, at the end of its latest fiscal year, a ratio of current
5 assets to current liabilities of less than 1.25 to 1. For the purpose
6 of this subdivision, “current assets” does not include either of the
7 following:

8 (A) Intangible assets, including goodwill, going concern value,
9 organization expense, start-up costs, long-term prepayment of
10 deferred charges, and nonreturnable deposits.

11 (B) State or federal grant funds that are not the property of the
12 institution, but are held for future disbursement for the benefit of
13 students.

14 (b) Unearned tuition shall be accounted for in accordance with
15 generally accepted accounting principles. When another
16 government agency requires an institution to file an annual
17 financial audit prepared by a certified public accountant, that
18 agency’s current ratio standard may apply in lieu of the ratio
19 specified in this subdivision if the ratio of current assets to current
20 liabilities under that standard is one to one or greater. Institutions
21 shall self-certify that they meet the requirements of this section,
22 and incorporate the self-certification into their annual report.

23 (c) In determining compliance with the requirements of this
24 section, the institution may consider the financial resources of a
25 parent corporation if the parent corporation at all times complies
26 with an irrevocable and unconditional agreement approved by its
27 board of directors that satisfies all of the following requirements:

28 (1) Consent to be sued in California.

29 (2) Consent to be subject to the administrative jurisdiction of
30 the board and the Student Aid Commission in connection with the
31 institution’s compliance with this chapter.

32 (3) Appoint an agent for service of process in California and
33 all notices required by this chapter.

34 (4) Agree to pay any refund, claim, penalty, or judgment that
35 the institution is obligated to pay.

36 (5) File financial statements, maintain financial records, and
37 permit the inspection and copying of financial records to the same
38 extent as is required of the institution.

39 94833.7. If the board determines that an institution is not
40 financially responsible, the board, under terms and conditions

1 *prescribed by the board, may require the institution to submit for*
2 *its latest complete fiscal year and its current fiscal year, each of*
3 *the following:*

4 *(a) A financial audit of the institution conducted by a licensed*
5 *certified public accountant, in accordance with generally accepted*
6 *auditing standards.*

7 *(b) The institution's financial plan for establishing financial*
8 *responsibility.*

9 *(c) Any other information requested by the board.*

10 94834. *(a) This section applies to an audit, review, or*
11 *statement prepared by an independent accountant and to every*
12 *financial report prepared at the request of the board to demonstrate*
13 *an institution's financial responsibility.*

14 *(b) Institutional audits and reviews of financial data, including*
15 *the preparation of financial statements, shall comply with all of*
16 *the following:*

17 *(1) Financial statements shall be prepared in accordance with*
18 *generally accepted accounting principles established by the*
19 *American Institute of Certified Public Accountants, and audited*
20 *or reviewed by an independent certified public accountant who is*
21 *not an employee, officer, or corporate director or member of the*
22 *governing board of the institution.*

23 *(2) Financial statements prepared on an annual basis shall*
24 *include a balance sheet, statement of operations, statement of cash*
25 *flow, and statement of retained earnings or capital. Nonprofit*
26 *institutions to which this section is applicable shall provide this*
27 *information in the manner required under generally accepted*
28 *accounting principles for nonprofit organizations.*

29 *(3) The financial statements shall establish whether the*
30 *institution complies with the appropriate financial responsibility*
31 *requirements of this chapter.*

32 *(4) If an audit that is performed to determine compliance with*
33 *any federal or state student financial aid program reveals any*
34 *failure to comply with the requirements of the program, and the*
35 *noncompliance creates any liability or potential liability for the*
36 *institution, the financial report shall reflect the liability or potential*
37 *liability.*

38 *(5) Work papers and the supporting documentation for the*
39 *financial statements shall be retained for five years from the date*

1 of the statements, and shall be made available to the board upon
2 request.

3 (c) An audit shall be conducted in accordance with generally
4 accepted auditing standards, and if an audit is conducted, the
5 accountant shall obtain an understanding of the institution's
6 internal financial control structure, assess any risks, and report
7 any material deficiencies in the internal controls.

8 (d) An audit or financial report shall contain a statement signed
9 by the individual who has prepared the report stating that the
10 institution has paid or has not paid to the board all amounts owed
11 under Article 13 (commencing with Section 95100). If the
12 institution is a corporation that is publicly traded on a national
13 stock exchange, the submission of the corporation's annual report
14 shall be deemed to comply with this section. The board shall be
15 deemed an intended beneficiary of that statement in an audit or
16 financial report. An institution that has not paid all amounts owed
17 to the board under Article 13 (commencing with Section 95100)
18 shall report to the board within 30 days on its plan to become
19 current in these payments. This subdivision shall not be construed
20 to require the institution to prepare a separate audit of, or report
21 on, the Student Tuition Recovery Fund.

22 94834.3. (a) A new institution shall post a bond or letter of
23 credit, in favor of the State of California, in the amount of ____
24 dollars (\$____), with a term of three years for the indemnification
25 of any person for any loss, including the loss of prepaid tuition,
26 suffered as a result of the occurrence of any violation of this
27 chapter during the period of coverage. This requirement shall not
28 apply to any institution that has held a full approval for a period
29 of five years, or is accredited by a federally approved accrediting
30 agency.

31 (b) Liability on the bond or letter of credit may be enforced
32 after a hearing before the board, after 30 days' advance written
33 notice to the principal and surety. This section supplements, but
34 does not supplant, any other rights or remedies to enforce liability
35 on the bond or letter of credit.

36 (c) "New institution," for the purposes of this section, means
37 an institution that has been operating under a full approval to
38 operate in this state for not more than five years.

39 94834.5. (a) An institution approved to operate under this
40 chapter shall provide an annual report to the board, under penalty

1 of perjury, by July 1 of each year, electronically and in writing,
2 the following information for educational programs offered in the
3 prior fiscal year:

4 (1) The total number of students enrolled, by level of degree or
5 type of diploma program.

6 (2) The number of degrees and diplomas awarded, by level of
7 degree.

8 (3) The degree levels offered.

9 (4) Program completion rates.

10 (5) Program placement rates.

11 (6) The schedule of tuition and fees required for each term,
12 program, course of instruction, or degree offered.

13 (7) A statement as to whether the institution is in compliance
14 with Section 94833.5.

15 (8) A statement indicating whether the institution is or is not
16 current on its payments to the Student Tuition Recovery Fund.

17 (9) A statement indicating the amount of private loan funding
18 that is providing for students enrolled at the institution.

19 (10) Any additional information that the board may prescribe
20 pursuant to a corrective action plan.

21 (b) Program completion rates and placement data shall be
22 reported in accordance with the standards and criteria prescribed
23 by this chapter.

24 (c) Based on the review of information submitted to fulfill the
25 requirements of this section, or conclusions or inferences the board
26 may reach based on a lack of information submitted, the board
27 may initiate a compliance review and may require evidence of
28 financial stability and responsibility pursuant to this chapter.

29 94834.7. (a) An institution shall designate and maintain an
30 agent for service of process within this state and provide the name,
31 address, and telephone number of the agent to the board. The
32 board shall furnish the agent's name, address, and telephone
33 number to a person upon request.

34 (b) If an institution is not operating in California when it applies
35 for approval to operate, the institution shall set forth the name,
36 address, and telephone number of its agent for service of process
37 in the institution's application.

38 (c) If an institution fails to designate or maintain an agent for
39 service of process pursuant to subdivision (a) and if service on the
40 institution cannot reasonably be effected in the manner provided

1 in Section 415.10, 415.20, 415.30, or 415.40 of the Code of Civil
2 Procedure, the institution may be served by leaving a copy of the
3 process or any other document in an office of the board and by
4 sending, by first-class mail, a notice of the service upon the board
5 and a copy of the process or other document to the institution at
6 its last address on file with the board. Service in this manner shall
7 be deemed complete on the 10th day after that mailing to the
8 institution. Proof of service may be made by a declaration showing
9 compliance with this subdivision.

10 94835. A person may not act as an agent for or on behalf of
11 an institution if he or she has been found in a judicial or
12 administrative proceeding to have violated this chapter, or there
13 exists any of the grounds for denial set forth in Section 480 of the
14 Business and Professions Code.

15 94835.3. An agency shall hold a valid authorization issued by
16 the board, except for an agency recruiting solely for a degree
17 granting institution, which is not required to hold an authorization.

18 94835.5. The application for an authorization for an agency
19 shall include the following:

20 (a) A current financial statement prepared by a California
21 licensed certified public accountant who is not an employee,
22 officer, or director of the institution.

23 (b) Evidence of a surety bond issued in favor of the State of
24 California by an admitted surety insurer making provision for
25 indemnification of any person for any loss suffered as a result of
26 the occurrence, during the period of coverage, of any fraud or
27 misrepresentation used in connection with the solicitation for the
28 sale of any program of study, or as a result of any violation of this
29 chapter. The term of the bond shall extend over the period of the
30 authorization. The bond shall provide for liability in the penal sum
31 of two hundred fifty thousand dollars (\$250,000) for each agency
32 to which coverage is extended by its terms. Neither the principal
33 nor the surety on a bond may terminate the coverage of the bond
34 except upon giving 30 days' prior written notice to the board, and
35 upon contemporaneously surrendering the agency's authorization
36 to operate. Liability on the bond may be enforced after a hearing
37 before the board, after 30 days' advance written notice to the
38 principal and surety. This subdivision supplements, but does not
39 supplant, any other rights or remedies to enforce liability on the
40 bond.

1 (c) A copy of the student disclosure statement to be read and
2 signed by all prospective students referred to an institution by the
3 agency. The student disclosure statement shall include, but shall
4 not be limited to, all of the following:

5 (1) A statement to the effect that no promise of employment has
6 been made by the agency.

7 (2) A statement to the effect that repayment of any debt incurred
8 by a student in connection with his or her education will be the
9 sole responsibility of the student.

10 (3) The amount and terms of any fee to be paid by the student
11 to the agency.

12 (4) The following statement: “Any questions or problems
13 concerning this agency should be directed to the Board for Private
14 Postsecondary Education,” including the current address and
15 telephone number for the board.

16 (5) A statement to the effect that the institution or institutions
17 to which the prospective student is referred by the agency have
18 the obligation to make available to the student a catalog or
19 brochure containing information describing all of the following:

20 (A) The courses offered.

21 (B) Program objectives.

22 (C) Length of program.

23 (D) The faculty and their qualifications.

24 (E) A schedule of tuition, fees, and all other charges and
25 expenses necessary for the completion of the course of study.

26 (F) The cancellation and refund policies.

27 (G) The total cost of tuition over the period needed to complete
28 the student’s education.

29 (H) Other material facts concerning the institution and the
30 program or course of instruction that are reasonably likely to
31 affect the decision of the student to enroll in the institution.

32 (d) Identification of all employees of the agency and their titles,
33 and of all agents with whom the agency contracts.

34 (e) Identification of all owners, and if the entity is a corporation,
35 the identification of all persons possessing an interest equal to, or
36 in excess, of 10 percent.

37 (f) Identification of all vendors of educational services for which
38 the agency provides recruitment services.

39 (g) A signed statement by the applicant that all employees
40 engaged in recruitment activities will be properly informed about

1 *the requirements they are required to comply with under this*
2 *chapter.*

3 94835.7. *Within 30 days of receipt of a person's completed*
4 *application for authorization as an agency, and prior to issuance*
5 *of that authorization, the board may inspect the applicant and*
6 *verify the application. Within 30 days of the inspection, the board*
7 *shall either issue an authorization for a one-year period, subject*
8 *to annual renewal at the end of that period, or deny the application*
9 *for authorization. The board shall deny the authorization if the*
10 *applicant or any owner, officer, or director of the applicant*
11 *previously has been found in a judicial or administrative*
12 *proceeding to have violated this chapter, or if there exists any of*
13 *the grounds for denial set forth in Section 480 of the Business and*
14 *Professions Code.*

15 94836. *An agency or an employee of an agency may not make*
16 *an untrue or misleading statement in the course of a solicitation*
17 *or recruitment activity or engage in the sales, collection, credit,*
18 *or other practices of any type that are false, deceptive, misleading,*
19 *or unfair.*

20 94836.3. *An agency or an employee of an agency shall provide*
21 *a prospective student with the disclosure statement described in*
22 *subdivision (c) of Section 94835.5 and shall allow the prospective*
23 *student a sufficient opportunity to read it before soliciting or*
24 *recruiting that prospective student for enrollment or referring that*
25 *prospective student to an institution. That disclosure statement*
26 *shall be printed in 10-point type in English and, if the solicitation,*
27 *recruitment, or referral is to be conducted in a language other*
28 *than English, in that other language.*

29 94836.5. *An institution approved under this chapter shall cease*
30 *all recruitment activities involving an agent if the board takes*
31 *action to revoke or deny that agency's authorization.*

32 94836.7. *The board shall maintain records for five years of*
33 *each application for an authorization, each verification by the*
34 *board of an application, each bond, and each denial, issuance,*
35 *and revocation of an authorization.*

36 94837. *A student may bring an action against an agency if that*
37 *agency, or an employee of that agency, violates this chapter or*
38 *commits a fraud or misrepresentation and, upon prevailing, is*
39 *entitled to the recovery of damages, reasonable attorney's fees,*
40 *and costs. If a court finds that the violation was willfully committed,*

1 *the court shall, in addition to the award of damages, award a civil*
2 *penalty of up to two times the amount of damages sustained by the*
3 *student.*

4 94837.3. Any person who violates any of Sections 94835.3 to
5 94837, inclusive, either (a) willfully, or (b) in such a manner that
6 harms a student or prospective student, is guilty of a misdemeanor
7 punishable by imprisonment in a county jail not exceeding six
8 months, by a fine not to exceed five thousand dollars (\$5,000), or
9 by both that imprisonment and fine.

10 94837.5. (a) The governing board or other governing authority
11 of an institution shall adopt rules providing for the withholding
12 of institutional services from students or former students who have
13 been notified, in writing, at the student's or former student's last
14 known address, that the student owes a repayment on a grant for
15 any student financial assistance provided under Subchapter IV
16 (commencing with Section 1070) of Chapter 28 of Title 20 of the
17 United States Code, or is in default on a loan or loans under either
18 of the following loan programs:

19 (1) The Stafford Student Loan program.

20 (2) The Supplemental Loans for Students program.

21 (3) Any program directly or indirectly financed by the California
22 Educational Facilities Authority.

23 (b) The rules adopted pursuant to subdivision (a) shall provide
24 that the services withheld may be provided during a period when
25 the facts are in dispute and when the student or former student
26 demonstrates to either the governing board or other appropriate
27 governing authority of the institution, the United States Department
28 of Education or the Student Aid Commission, and the appropriate
29 entity or its designee, that reasonable progress has been made to
30 repay the loan or that there exists a reasonable justification for
31 the delay as determined by the institution. The rules shall specify
32 the services to be withheld from the student, which may include
33 the following, except that the rules may not include the withholding
34 of registration privileges:

35 (1) The provision of grades.

36 (2) The provision of transcripts.

37 (3) The provision of diplomas.

38 (c) Guarantors, or those who act as their agents or act under
39 their control, who provide information to institutions pursuant to
40 this section, shall defend, indemnify, and hold harmless the

1 governing board or other governing authority of the institutions
2 from action resulting from compliance with this section when the
3 action arises as a result of incorrect, misleading, or untimely
4 information provided to the institution by the guarantors, their
5 agents, or those acting under the control of the guarantors.

6 94837.7. (a) (1) An institution extending credit or lending
7 money to a person for tuition, fees, or other charges for educational
8 services to be rendered or furnished shall cause any note,
9 instrument, or other evidence of indebtedness taken in connection
10 with that loan or extension of that credit to be conspicuously
11 marked on the face thereof with the following notice:

12 “NOTICE:

13 “ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT
14 IS SUBJECT TO ALL CLAIMS AND DEFENSES THAT THE
15 DEBTOR COULD ASSERT AGAINST THE SELLER OF
16 GOODS OR SERVICES OBTAINED PURSUANT HERETO
17 OR WITH THE PROCEEDS HEREOF. RECOVERY
18 HEREUNDER BY THE DEBTOR SHALL NOT EXCEED
19 AMOUNTS PAYED BY THE DEBTOR HEREUNDER.”

20 (2) An institution that fails to comply with paragraph (1) shall
21 be liable for any damage or loss suffered or incurred by any
22 subsequent assignee, transferee, or holder of that evidence of
23 indebtedness on account of the absence of that notification.

24 (b) Notwithstanding the presence or absence of the notification
25 required in subdivision (a), and notwithstanding an agreement in
26 which a student waives the right to assert a claim or defense, an
27 institution making a loan or extending credit and the transferee,
28 assignee, or holder of that evidence of indebtedness, are subject
29 to all defenses and claims that could be asserted against the
30 institution that was to render or furnish those educational services
31 by a party to that evidence of indebtedness or by the person to
32 whom these educational services were to be rendered or furnished
33 up to the amount remaining to be paid thereon.

34 94838. A note, or other instrument of indebtedness, or contract
35 relating to payment for educational services is not enforceable by
36 an institution governed by this chapter unless, at the time of
37 execution of that note, other instrument of indebtedness, or
38 contract, the institution has a valid approval to operate pursuant
39 to this chapter.

1 94838.3. A student may not waive a provision of this chapter.
2 A waiver or limitation of a substantive or procedural right or
3 remedy is in violation of this section and is void and unenforceable.

4 94838.5. An institution that files a proper application and
5 complies with this chapter and each standard and regulation
6 pertaining to this chapter is qualified to receive an approval to
7 operate. The approval to operate shall be issued to the owners or
8 governing body, and shall be nontransferable, unless approved
9 by the board.

10 94838.7. (a) A shift in control or change in ownership of an
11 institution may not be made until that institution submits an
12 application for approval to operate under the changed ownership
13 or control. This application shall be submitted at least 20 days
14 prior to the shift in control or change in ownership.

15 (b) An application filed pursuant to this section shall be
16 approved if that application is filed properly and complies with
17 all applicable standards and regulations pertaining to this chapter.
18 Upon approval of a change in ownership, the board shall give
19 written notice to the Student Aid Commission.

20 (c) An application filed pursuant to this section shall include a
21 fee assessed pursuant to Section 94824.

22 (d) An application filed pursuant to this section may include
23 pertinent portions of the institution's previous application prepared
24 in connection with programs or courses of instruction that remain
25 unchanged or unaffected by the change in ownership.

26 (e) An application filed pursuant to this section may not be
27 approved for an applicant that has been found previously in a
28 judicial or administrative proceeding to have violated this chapter,
29 or if there exists any of the grounds for denial set forth in Section
30 480 of the Business and Professions Code or Section 94833.5 of
31 this code.

32 (f) If an application for a new approval to operate is not timely
33 filed by an institution, as required by this section, that institution's
34 approval to operate shall terminate.

35 (g) For the purposes of this section, a change in ownership
36 occurs when there is a change of control of the institution, or where
37 a person that previously did not own at least 25 percent of the
38 stock or controlling interest of an institution or its parent
39 corporation, acquires ownership of at least 25 percent of the stock
40 of the institution or its parent corporation, or when a for-profit

1 *business converts to nonprofit corporation status or forms a*
2 *nonprofit corporation as a subsidiary to provide the educational*
3 *services for which the for-profit business is approved to operate.*

4 94839. *An institution or representative of an institution may*
5 *not do any of the following:*

6 (a) *Use, or allow the use of, any reproduction or facsimile of*
7 *the Great Seal of the State of California on a diploma.*

8 (b) *Promise or guarantee employment.*

9 (c) *Advertise concerning job availability, degree of skill, or*
10 *length of time required to learn a trade or skill unless the*
11 *information is accurate and in no way misleading.*

12 (d) *Advertise, or indicate in promotional material, that*
13 *correspondence instruction or correspondence courses of study*
14 *are offered, without including in all advertising or promotional*
15 *material the fact that the instruction or programs of study are*
16 *offered by correspondence, home study, or digital or electronic*
17 *means of delivery.*

18 (e) *Advertise, or indicate in a promotional material, that resident*
19 *instruction or programs of study are offered, without including in*
20 *all advertising or promotional material the location where the*
21 *training is given or the location of the resident instruction.*

22 (f) *Solicit students for enrollment by causing an advertisement*
23 *to be published in “help wanted” columns in a magazine,*
24 *newspaper, or publication, or use “blind” advertising that fails*
25 *to identify the school or institution.*

26 (g) *Advertise, or indicate in a promotional material, that the*
27 *institution is accredited, unless the institution has been recognized*
28 *or approved as meeting the standards established by an accrediting*
29 *agency recognized by the United States Department of Education*
30 *or the Committee of Bar Examiners for the State of California.*

31 (h) (1) *Fail to comply with Part 433 (commencing with Section*
32 *433.1) of Title 16 of the Code of Federal Regulations as it exists*
33 *on January 1, 2007.*

34 (2) *For each student who enters into a consumer credit contract*
35 *that is subject to Part 433 (commencing with Section 433.1) of*
36 *Title 16 of the Code of Federal Regulations as it exists on January*
37 *1, 2007, the institution shall include the following statement in*
38 *any written contract or agreement for educational services or, in*
39 *the alternative, shall provide the student with a separate written*
40 *notice containing the following statement: “YOU MAY ASSERT*

1 AGAINST THE HOLDER OF THE PROMISSORY NOTE YOU
2 SIGNED IN ORDER TO FINANCE THE COST OF INSTRUCTION
3 ALL OF THE CLAIMS AND DEFENSES THAT YOU COULD
4 ASSERT AGAINST THIS SCHOOL, UP TO THE AMOUNT YOU
5 HAVE ALREADY PAID UNDER THE PROMISSORY NOTE.”

6 (3) The statement set forth in paragraph (2) shall be printed in
7 boldface print of at least 12-point size.

8 94839.3. An institution or representative of an institution may
9 not do any of the following:

10 (a) Engage in an unlawful, unfair or fraudulent business act or
11 practice, or any unfair, deceptive, untrue, or misleading advertising
12 within the meaning of Chapter 5 (commencing with Section 17200)
13 of Part 2 of, or Article 1 (commencing with Section 17500) of
14 Chapter 1 of Part 3 of, Division 7 of the Business and Professions
15 Code.

16 (b) Induce a person to enter into an agreement for a program
17 of instruction by offering to compensate that person to act as the
18 institution’s representative in the solicitation, referral, or
19 recruitment of others for enrollment in the institution.

20 (c) Offer to pay or pay any consideration to a student or
21 prospective student to act as a representative of the institution
22 with regard to the solicitation, referral, or recruitment of any
23 person for enrollment in the institution in either of the following:

24 (1) During the 60-day period following the date on which the
25 student began the program.

26 (2) At a subsequent time, if the student has not maintained
27 satisfactory academic progress in acquiring the necessary level
28 of education, training, skill, and experience to obtain employment
29 in the occupation or job title to which the program is represented
30 to lead. The institution shall have the burden of proof to establish
31 that the student has maintained satisfactory academic progress.

32 (d) Pay any consideration to a person to induce that person to
33 sign an agreement for a program of instruction.

34 (e) Use a misleading name in any manner implying any of the
35 following:

36 (1) The institution is affiliated with any governmental agency,
37 public or private corporation, agency, or association.

38 (2) The institution is a public institution.

39 (3) The institution grants degrees.

1 (f) *In any manner make an untrue or misleading change in, or*
2 *untrue or misleading statement related to, a test score, grade,*
3 *record of grades, attendance record, record indicating student*
4 *completion or employment, or financial information, including,*
5 *but not necessarily limited to, any of the following:*

6 (A) *A financial report required to be filed pursuant to any of*
7 *Sections 94833.5 to 94834.5, inclusive.*

8 (B) *Information or records relating to the student's eligibility*
9 *for financial assistance or attendance at the institution.*

10 (C) *Any other record or document required by this chapter or,*
11 *pursuant to a regulation, by the board.*

12 (g) *Falsify, destroy, or conceal any record or other item*
13 *described in paragraph (1) while that record or item is required*
14 *to be maintained by this chapter or, pursuant to a regulation, by*
15 *the board.*

16 (h) *Use the terms "approval," "approved," "approval to*
17 *operate," or "approved to operate" without stating clearly and*
18 *conspicuously that approval to operate means compliance with*
19 *state standards as set forth in this chapter. If the board has granted*
20 *an institution approval to operate, the institution or its*
21 *representative may indicate that the institution is "licensed" or*
22 *"licensed to operate," but may not state or imply any of the*
23 *following:*

24 (1) *The institution or its programs of instruction are endorsed*
25 *or recommended by the state or by the board.*

26 (2) *The board's grant to the institution of approval to operate*
27 *indicates that the institution exceeds minimum state standards as*
28 *set forth in this chapter.*

29 (3) *The board or the state endorses or recommends the*
30 *institution.*

31 (i) *Direct a representative to perform any unlawful act, to*
32 *refrain from complaining or reporting unlawful conduct to the*
33 *board or another government agency, or to engage in any unfair*
34 *act to persuade a student not to complain to the board or another*
35 *government agency.*

36 (j) *An institution offering programs or courses of instruction*
37 *represented to lead to occupations or job titles requiring licensure*
38 *may not enter into an agreement for a course of instruction with*
39 *a person whom the institution knows or, by the exercise of*
40 *reasonable care, should know, would be ineligible to obtain*

1 *licensure in the occupation or job title to which the course of*
2 *instruction is represented to lead, at the time of the scheduled date*
3 *of course completion, for reasons such as age, physical*
4 *characteristics, or relevant past criminal conviction.*

5 *(k) An institution may not compensate a representative involved*
6 *in recruitment, enrollment, admissions, student attendance, or*
7 *sales of equipment to students on the basis of a commission,*
8 *commission draw, bonus, quota, or other similar method, except*
9 *as follows:*

10 *(1) If the program of instruction is scheduled to be completed*
11 *in 90 days or less, the institution shall pay compensation related*
12 *to a particular student only if that student completes the course.*

13 *(2) If the program of instruction is scheduled to be completed*
14 *in more than 90 days, the institution shall pay compensation related*
15 *to a particular student as follows:*

16 *(A) Compensation may not be paid for at least 90 days after*
17 *that student has begun the program.*

18 *(B) Up to one-half of the compensation may be paid before the*
19 *student completes the program only if the student has made*
20 *satisfactory academic progress, documented by the institution in*
21 *the student's file, for more than 90 days.*

22 *(C) The remainder of the compensation shall be paid only after*
23 *the student's completion of the program. This subdivision shall*
24 *not prevent the payment at any time of an hourly, weekly, monthly,*
25 *or annual wage or salary.*

26 *94839.5. An institution is liable in a civil or administrative*
27 *action or proceeding for a violation of this article committed by*
28 *a representative of the institution if the violation either (a) is willful*
29 *or (b) harms a student or prospective student. An institution is*
30 *liable in a criminal action for violations of this article committed*
31 *by a representative of the institution to the extent permitted by law.*

32 *94839.7. An institution that violates a provision of this article,*
33 *Article 6 (commencing with Section 94850), or Article 7*
34 *(commencing with Section 94900) either (a) willfully, or (b) in a*
35 *manner that harms a student, may not enforce any contract or*
36 *agreement arising from the transaction in which the violation*
37 *occurred, and shall refund to the student any fees that it has*
38 *collected from the student.*

39 *94840. (a) An institution shall not merge classes unless all of*
40 *the students have received the same amount of instruction and*

1 training. This subdivision does not prevent the placement of
2 students, who are enrolled in different programs of instruction, in
3 the same class if that class is part of each of the courses and the
4 placement in a merged class will not impair the students' learning
5 of the subject matter of the class.

6 (b) After a student has enrolled in a program of instruction, the
7 institution shall not do any of the following:

8 (1) Make any unscheduled suspension of any class unless caused
9 by circumstances beyond the institution's control.

10 (2) Change the day or time in which any class is offered to a
11 day when the student is not scheduled to attend the institution or
12 to a time that is outside of the range of time that the student is
13 scheduled to attend the institution on the day for which the change
14 is proposed, unless at least 90 percent of the students who are
15 enrolled consent to the change and the institution offers full refunds
16 to the students who do not consent to the change. For the purpose
17 of this paragraph, "range of time" means the period beginning
18 with the time at which the student's first scheduled class session
19 for the day is set to start and ending with the time the student's
20 last scheduled class session for that day is set to finish.

21 (c) If an institution enrolls a student in a program of instruction
22 that is not offered or designed as a home study or correspondence
23 course at the time of enrollment, the institution shall not convert
24 the program of instruction from classroom instruction to a home
25 study or correspondence course.

26 (d) An institution shall not move the class instruction to a
27 location more than 25 miles from the location of instruction at the
28 time of enrollment unless any of the following occur:

29 (1) The institution discloses orally and clearly and conspicuously
30 in writing to each student before enrollment in the program that
31 the location of instruction will change after the program begins
32 and the address of the proposed location.

33 (2) The institution applies for, and the board grants, approval
34 to change the location. The board shall grant the application within
35 30 days if the board, after notice to affected students and an
36 opportunity for them to be heard as prescribed by the board,
37 concludes that the change in location would not be unfair or unduly
38 burdensome to students. The board may grant approval to change
39 the location, which may be subject to reasonable conditions
40 imposed by the board, such as requiring the institution to provide

1 *transportation, transportation costs, or refunds to adversely*
2 *affected students.*

3 *(3) The institution offers a full refund to students enrolled in*
4 *the program of instruction who do not voluntarily consent to the*
5 *change.*

6 *94840.3. A bond ordered by the board pursuant to this chapter*
7 *shall be issued by an admitted surety insurer in an amount*
8 *established at the discretion of the board that is sufficient to protect*
9 *students from the potential consequences of the violation. The*
10 *following shall also be required:*

11 *(a) The bond shall be in favor of the State of California for the*
12 *indemnification of a person for a loss, including the loss of prepaid*
13 *tuition, suffered as a result of the occurrence of a violation of this*
14 *chapter during the period of coverage.*

15 *(b) Liability on the bond may be enforced after a hearing before*
16 *the board, after 30 days, advance written notice to the principal*
17 *and surety. The board shall adopt regulations establishing the*
18 *procedure for administrative enforcement of liability. This*
19 *paragraph supplements, but does not supplant, any other rights*
20 *or remedies to enforce liability on the bond.*

21 *(c) The board may order the institution to file reports at an*
22 *interval the board deems necessary to enable the board to monitor*
23 *the adequacy of the bond coverage and to determine whether*
24 *further action is appropriate.*

25
26 Article 6. Student Consumer Protection
27

28 *94850. ~~All institutions~~ Any institution approved under Tier 2*
29 *or Tier 3, as defined in Section 94955, shall be maintained and*
30 *operated, or, in the case of a new institution, shall demonstrate*
31 *that it will be maintained and operated, in compliance with all of*
32 *the following minimum standards:*

33 *(a) That, the institution is financially capable of fulfilling its*
34 *commitments to its students.*

35 *(b) That, upon satisfactory completion of study or training, the*
36 *student is given an appropriate degree, ~~or certification~~, or*
37 *certification by the institution, indicating that the student has*
38 *satisfactorily completed the program or programs of instruction.*

39 *(c) That the institution provides instruction as part of its*
40 *educational program.*

1 94850.5. *An institution subject to this chapter shall not*
2 *advertise that it is “accredited” unless that institution is accredited*
3 *within the meaning of Section 94712.*

4 94851. The executive director shall report all enforcement
5 actions to the board in full board hearings.

6 94852. Institutions planning to or currently delivering
7 postsecondary education by correspondence or through online
8 Internet delivery to California students for college credit or
9 noncredit bearing programs leading to a particular vocational,
10 trade, or career field that will maintain no physical presence in the
11 state shall not offer these educational programs unless the
12 institution has been approved by the board as meeting the
13 requirements of this chapter.

14 94853. (a) As a condition of obtaining initial approval to
15 operate or maintaining or renewing its approval to operate, a Tier
16 1 institution, as defined in Section 94955, shall comply with, and
17 a Tier 2 or Tier 3 institution, as defined in Section 94955, offering
18 any educational program or educational service shall demonstrate
19 compliance with, *all of* the following financial resource
20 requirements criteria in addition to the financial requirements of
21 Section 94855-:

22 (1) Satisfy minimum standards prescribed by Article 7
23 (commencing with Section 94900), Article 8 (commencing with
24 Section 94950), and, if applicable, Article 10 (commencing with
25 Section 95050).

26 (2) Provide the education, training, skill, and experience that
27 the institution, in any manner, represented it would provide.

28 (3) Pay timely refunds as required by Section 94865 or 94867.

29 (b) (1) In determining the extent of an institution’s compliance
30 with subdivision (a), the board, at the institution’s request, may
31 consider the financial resources of a parent corporation if the parent
32 corporation files with the board, and at all times complies with,
33 an irrevocable and unconditional agreement approved by its board
34 of directors that satisfies all of the requirements of paragraph (2).

35 (2) The agreement described in paragraph (1) shall provide that
36 the parent corporation does all of the following:

37 (A) Consent to be sued in California in connection with the
38 provision of education services to California residents.

1 (B) Consent to be subject to the administrative jurisdiction of
2 the board and the Student Aid Commission in connection with the
3 institution's compliance with this chapter.

4 (C) Appoint an agent for service of process in California and
5 all notices required by this chapter.

6 (D) Agree to pay any refund, claim, penalty, or judgment that
7 the institution is obligated to pay.

8 (E) File financial reports, maintain financial records, and permit
9 the inspection and copying of financial records to the same extent
10 as is required of the institution.

11 (3) For the purposes of this subdivision, a "parent corporation"
12 means a corporation that owns more than 80 percent of the stock
13 of the institution whose financial resources is at issue.

14 (c) An institution shall not be considered financially responsible
15 under any of the following conditions:

16 (1) (A) The institution fails to have available sufficient funds
17 and accounts receivable to pay all operating expenses due within
18 30 days.

19 (B) For the purposes of this paragraph, "funds" means cash or
20 assets that can be converted into cash within seven days.

21 (2) (A) Under generally accepted accounting principles, the
22 institution had, at the end of its latest fiscal year, a quick ratio of
23 current assets to current liabilities of 1.25 to 1 or higher.

24 (B) The "quick ratio" or "acid test" within the meaning of this
25 paragraph shall be calculated as follows:

26 (i) Deduct from the total current assets the school's inventory.

27 (ii) Divide this figure by the current liabilities.

28 (iii) The quotient is the quick ratio.

29 (3) For the purposes of this paragraph, "current assets" do not
30 include any of the following:

31 (A) Intangible assets, including goodwill, going concern value,
32 organization expense, startup costs, long-term prepayment of
33 deferred charges, and nonrefundable deposits.

34 (B) State or federal grant funds that are not the property of the
35 institution, but which are held for future disbursement for the
36 benefit of students. Unearned tuition shall be accounted for in
37 accordance with generally accepted accounting principles.

38 (d) If the board determines that an institution is not financially
39 responsible, the board, under terms and conditions prescribed by
40 the board, may require the institution to submit for its latest

1 complete fiscal year and its current fiscal year, each of the
2 following:

3 (1) A financial audit of the institution conducted by a licensed
4 certified public accountant, in accordance with generally accepted
5 auditing standards.

6 (2) The institution's financial plan for establishing financial
7 responsibility.

8 (3) Any other information requested by the board.

9 (e) Subdivision (d) does not prevent the board from taking any
10 other actions authorized under this chapter.

11 94854. Tier 2 and Tier 3 institutions, as defined in Section
12 94955, shall file annually with the board a financial report prepared
13 pursuant to Section 94855. Work papers for the audit shall be
14 retained for five years from the date of the audit report, and shall
15 be made available to the board upon request after the completion
16 of the audit.

17 94855. (a) This section applies to every audit, review, and
18 statement prepared by an independent accountant and to every
19 financial report required to be prepared or filed by this chapter.

20 (b) Audits and reviews of financial data, including the
21 preparation of financial statements, shall comply with all of the
22 following:

23 (1) An institution that collected seven hundred fifty thousand
24 dollars (\$750,000) or more in total student charges in its preceding
25 fiscal year shall file financial reports prepared in accordance with
26 generally accepted accounting principles established by the
27 American Institute of Certified Public Accountants, and audited
28 or reviewed by an independent certified public accountant who is
29 not an employee, officer, or corporate secretary or member of the
30 governing board of the institution.

31 (2) An institution or registrant that collected less than seven
32 hundred fifty thousand dollars (\$750,000) in total student charges
33 in its preceding fiscal year shall file financial reports prepared in
34 accordance with generally accepted accounting principles
35 established by the American Institute of Certified Public
36 Accountants. An individual with sufficient training to adhere to
37 the required accounting principles may prepare these financial
38 reports.

39 (3) Financial reports prepared on an annual basis shall include
40 a balance sheet, statement of operations, statement of cashflow,

1 and statement of retained earnings or capital. Nonprofit institutions
2 shall provide this information in the manner required under
3 generally accepted accounting principles for nonprofit
4 organizations.

5 (4) The financial report shall establish whether the institution
6 or registrant complies with subdivision (a) of Section 94853 or
7 subdivision (a) of this section, if applicable, and whether any of
8 the circumstances described in subdivision (b) of Section 94853
9 or subdivision (b) of this section, if applicable, exist.

10 (5) If an audit that is performed to determine compliance with
11 any federal or state student financial aid program reveals any failure
12 to comply with the requirements of the program, and the
13 noncompliance creates any liability or potential liability for the
14 institution, the financial report shall reflect the liability or potential
15 liability.

16 (6) Work papers for the financial statements shall be retained
17 for five years from the date of the reports, and shall be made
18 available to the board upon request after completion of the report.

19 (c) Any audits shall be conducted in accordance with generally
20 accepted auditing standards, and shall include the matters described
21 in subdivision (d).

22 (d) If an audit is conducted, the accountant shall obtain an
23 understanding of the institution's internal financial control
24 structure, assess any risks, and report any material deficiencies in
25 the internal controls.

26 (e) Any audit or financial report shall contain a statement signed
27 by the individual who has prepared the report stating that the
28 institution has paid or has not paid to the board all amounts owed
29 under Section 95102. If the institution is a corporation that is
30 publicly traded on a national stock exchange, the submission of
31 the corporation's annual report shall be deemed to comply with
32 this section. The board shall be deemed an intended beneficiary
33 of that statement in any audit or financial report. An institution or
34 registrant that has not paid all amounts owed to the board under
35 Section 95102 shall report to the board within 30 days on its plan
36 to become current in these payments. This subdivision shall not
37 be construed to require the institution or registrant to prepare a
38 separate audit or report on the Student Tuition Recovery Fund.

39 ~~94856. (a) Each institution approved to operate under this~~
40 ~~chapter shall report to the board, by July 1 of each year, or another~~

1 ~~date designated by the board, the following information for~~
2 ~~educational programs offered in the prior fiscal year:~~

3 ~~(1) The total number of students enrolled, by level of degree or~~
4 ~~type of diploma program.~~

5 ~~(2) The number of degrees and diplomas awarded, by level of~~
6 ~~degree.~~

7 ~~(3) The degree levels offered.~~

8 ~~(4) Program completion rates.~~

9 ~~(5) The schedule of tuition and fees required for each term,~~
10 ~~program, course of instruction, or degree offered.~~

11 ~~(6) Financial information demonstrating compliance with~~
12 ~~subdivisions (b) and (c) of Section 94853 and subdivisions (b) and~~
13 ~~(c) of Section 94855, if applicable.~~

14 ~~(7) Institutions having a probationary or conditional status shall~~
15 ~~submit an annual report reviewing their progress in meeting the~~
16 ~~standards required for approval status.~~

17 ~~(8) A statement indicating whether the institution is or is not~~
18 ~~current on its payments to the Student Tuition Recovery Fund.~~

19 ~~(9) A log of all written student complaints received and their~~
20 ~~disposition.~~

21 ~~(10) A log of all arbitrations or actions filed against the school~~
22 ~~and their disposition, including, the monetary amount of any~~
23 ~~settlement and any injunctive or other equitable relief provided by~~
24 ~~the disposition. On request of the board, the documents constituting~~
25 ~~any disposition of that matter shall be made available to the board.~~

26 ~~(11) Any additional information that the board may prescribe.~~

27 ~~(b) The information required to be reported by subdivision (a)~~
28 ~~shall be provided in two electronic formats, one of which may be~~
29 ~~in a form that cannot be changed, such as in a portable document~~
30 ~~format (pdf.) file, and one of which shall be in a searchable~~
31 ~~modifiable electronic format to be specified by the board, or if~~
32 ~~none is specified, in a commonly available spreadsheet program~~
33 ~~with any necessary narrative provided in a commonly available~~
34 ~~word processing program.~~

35 ~~(c) Colleges and universities operating under subdivision (h) of~~
36 ~~Section 94771 shall comply with the reporting requirements of~~
37 ~~paragraphs (1), (2), (3), and (5) of subdivision (a).~~

38 ~~(d) (1) Program completion rates and placement data shall be~~
39 ~~reported in accordance with the standards and criteria prescribed~~

1 by the board pursuant to this article and Section 94863, if
2 applicable.

3 (2) (A) The data underlying the completion rates and placement
4 data reported pursuant to this subdivision shall also be provided,
5 including the name, address, and telephone number of each student
6 who enrolled in a program of instruction, including each student
7 who canceled or withdrew before completing the program; the
8 date upon which the student completed the program of instruction
9 if he or she completed the program; for each student counted as a
10 job placement, the name, address, and telephone number of his or
11 her employer, the name, address, and telephone number of the
12 person who provided to the institution the information regarding
13 the person's employment, the name, title, or description of the job;
14 the date upon which the student first reported for employment, the
15 duration of the student's employment, the number of hours the
16 student worked per week, the student's starting salary, and the date
17 or dates upon which the institution verified employment; if any
18 student was excluded from the completion or placement rate
19 calculations, a statement of the reason or reasons each of these
20 students was excluded; and if the student chose not to seek
21 employment and instead enrolled in another program to earn a
22 higher degree, the name and address of the institution in which he
23 or she enrolled, as well as the program in which he or she enrolled.

24 (B) If the student is self-employed, the institution shall include
25 any documentation of self-employment, including, for example,
26 contracts, checks for payment, tax returns, social security
27 contribution records, records of accounts receivable or customer
28 payments, invoices for business supplies, rent receipts, appointment
29 book entries, business licenses, or any other information required
30 by the board that is a reliable indicator of self-employment. All of
31 this information shall be provided electronically in a format
32 prescribed by the board.

33 (3) Based on the review of information submitted to fulfill the
34 requirements of this section, the board may initiate a compliance
35 review and may place the institution on probation pursuant to
36 Section 95074, and may require evidence of financial stability and
37 responsibility pursuant to Sections 94853 and 94855, if applicable.

38 94857. Each institution approved under this chapter shall
39 provide the board with copies of all accrediting agency reports,
40 including preliminary reports and reports of visiting committees,

1 all audit reports prepared by the United States Department of
2 Education and student loan guaranty agencies, including all
3 preliminary reports, and the institution's written responses to the
4 reports described in this section, if applicable. The institution shall
5 provide a copy of each report within 15 days of the institution's
6 receipt of the report and a copy of the institution's response within
7 15 days of the institution's submission of its response. By a general
8 announcement on its Internet Web site, the board may authorize
9 or require these copies to be provided electronically or in paper
10 versions. Any documents provided electronically under this section
11 shall be indexed, with each separate document that makes up the
12 report or response provided as a separate file.

13 94858. (a) No institution approved under this chapter shall
14 offer any program of instruction to any person, or receive any
15 consideration from any person for a program of instruction, except
16 pursuant to a written agreement as described in this section. Any
17 written contract or agreement signed by a prospective student shall
18 not become operative until the student attends the first class or
19 session of instruction or has received the first lesson, if the student
20 is enrolled in a correspondence program.

21 (b) Every agreement for a program of instruction shall provide
22 all of the following:

23 (1) The name and address of the school and the addresses where
24 instruction will be provided.

25 (2) The name and description of the program of instruction,
26 including the total number of credits, classes, hours, or lessons
27 required to complete the program of instruction.

28 (3) A clear and conspicuous statement that the agreement or
29 contract is a legally binding instrument when signed by the student
30 and accepted by the school.

31 (4) The total amount that the student is obligated to pay for all
32 fees, charges, and expenses that shall be paid to complete the
33 program of instruction and all other services and facilities furnished
34 or made available to the student by the school, including any
35 charges made by the school for tuition, room and board, books,
36 materials, supplies, shop and studio fees, and any other fees and
37 expenses that the student will incur upon enrollment, shall be
38 separately itemized and underlined in capital letters on the same
39 page of the contract or agreement in which the student's signature
40 is required.

1 ~~(A) If the student signs an agreement for the entire program,~~
2 ~~the tuition and all other fees for the total cost of the program shall~~
3 ~~be detailed. If the student enrolls by the semester or quarter, the~~
4 ~~catalog shall include: the tuition per unit of credit, the units required~~
5 ~~per semester or quarter, the number of units required for the degree,~~
6 ~~a listing of all fees required to be paid and a description of how~~
7 ~~and when fees are to be paid.~~

8 ~~(B) The total amount charged for each item of equipment shall~~
9 ~~be separately stated. The amount charged for each item of~~
10 ~~equipment shall not exceed the equipment's fair market value. The~~
11 ~~institution shall have the burden of proof to establish the~~
12 ~~equipment's fair market value.~~

13 ~~(C) The total amount shall be underlined and capitalized and~~
14 ~~shall appear immediately above the following notice, which shall~~
15 ~~be printed above the space on the agreement that is reserved for~~
16 ~~the student's signature:~~

17 ~~"YOU ARE RESPONSIBLE FOR THIS AMOUNT. IF YOU~~
18 ~~GET A STUDENT LOAN, YOU ARE RESPONSIBLE FOR~~
19 ~~REPAYING THE LOAN AMOUNT PLUS ANY INTEREST."~~

20 ~~(D) A list of any charges and deposits that are nonrefundable~~
21 ~~shall be listed separately and clearly identified as nonrefundable~~
22 ~~charges.~~

23 ~~(E) The signature of the student under the following statement~~
24 ~~that is presented in 12-point boldface or larger print: "My signature~~
25 ~~below certifies that I have read, understood, and agreed to my~~
26 ~~rights and responsibilities, the catalog and the institution's~~
27 ~~cancellation and refund policies."~~

28 ~~(5) A clear and conspicuous caption, "BUYER'S RIGHT TO~~
29 ~~CANCEL" under which it is explained in detail that the student~~
30 ~~has the right to cancel the enrollment agreement and obtain a~~
31 ~~refund, the form and means of notice that the student should use~~
32 ~~in the event that he or she elects to cancel the enrollment~~
33 ~~agreement, and the title and address of the school official to whom~~
34 ~~the notice should be sent or delivered. The following statement~~
35 ~~shall be included on the enrollment agreement:~~

36 ~~"Students may cancel their contract with the school, without any~~
37 ~~penalty or obligations on the fifth business day following the first~~
38 ~~scheduled class session or with the first lesson in a correspondence~~
39 ~~course, whichever is applicable. Cancellations shall be made in~~
40 ~~writing. After the end of the cancellation period, students also have~~

1 the right to stop school at any time, and have the right to receive
2 a refund for the part of the program not taken but have been paid
3 for. If a student loses their copy of the contract, the school shall
4 provide another copy to the student upon written request and
5 without charge. If the school closes before the student graduates,
6 that student may be entitled to a refund. Any questions or problems
7 concerning this school that have not been satisfactorily answered
8 or resolved by the school should be directed to the board for Private
9 Postsecondary Education, (address), Sacramento, California 95834
10 or (Internet Web address).”

11 (A) If the student is not a resident of California or is the recipient
12 of third-party payer tuition and course costs, such as workforce
13 investment vouchers or rehabilitation funding, a clear statement
14 that the student is not eligible for protection under and recovery
15 from the Student Tuition Recovery Fund.

16 (B) The student’s right to withdraw from the program of
17 instruction and obtain a refund and an explanation of refund rights
18 and of how the amount of the refund will be determined including
19 a hypothetical example.

20 (6) A statement specifying that it is a state requirement that a
21 resident California student who pays his or her own tuition, either
22 directly or through a loan, is required to pay a state-imposed fee
23 for the Student Tuition Recovery Fund.

24 (7) A statement describing the purposes, operation, and
25 eligibility requirements of the Student Tuition Recovery Fund.

26 (c) All contracts and enrollment agreements signed by the
27 student shall be written in language that is capable of being easily
28 understood. If English is not the primary language spoken by the
29 student, the student shall have the right to obtain a clear explanation
30 of the terms and conditions of the agreement and all cancellation
31 and refund policies in his or her primary language.

32 (d) The institution shall provide a summary of the financial
33 resources encumbered by the student including, but not necessarily
34 limited to, public and private sources, interest rates, and total
35 repayment obligation.

36 (e) Each student shall be provided copies of any document that
37 he or she signs.

38 (f) The board may provide for the inclusion of additional
39 information in the enrollment agreement.

1 94858.5. (a) (1) *An institution shall comply with the federal*
2 *Student Right-To-Know and Campus Security Act (Public Law*
3 *101-542), other than those provisions of that act that relate to*
4 *financial aid for student-athletes, and with any applicable state*
5 *statute or regulation that requires any additional disclosures.*

6 (2) *The board shall develop and distribute a one-page Students’*
7 *Rights and Responsibilities Fact Sheet that shall provide essential*
8 *information to students of institutions subject to this chapter. This*
9 *fact sheet shall be made available to institutions and students*
10 *online.*

11 (3) *An institution that is subject to this chapter shall do all of*
12 *the following:*

13 (A) *Provide a copy of the Students’ Rights and Responsibilities*
14 *Fact Sheet to each prospective student prior to enrollment.*

15 (B) *Keep a signed receipt of delivery of the Students’ Rights*
16 *and Responsibilities Fact Sheet in the file of each student of the*
17 *institution.*

18 (C) *If and when the institution advertises itself online, provide*
19 *an online link to the board and to a copy of the Students’ Rights*
20 *and Responsibilities Fact Sheet.*

21 (b) *The institution shall include the license number assigned to*
22 *it by the board in a prominent place on the first page of all*
23 *materials that it provides to students pursuant to this section.*

24 94859. No student may waive any provision of this article.
25 Any waiver or limitation of any substantive or procedural right or
26 remedy is contrary to public policy and is therefore in violation of
27 this section and thereby void and unenforceable.

28 94860. (a) (1) Any institution or registrant governed by this
29 chapter extending credit or lending money to any person for tuition,
30 fees, or any charges whatever, for educational services to be
31 rendered or furnished shall cause any note, instrument, or other
32 evidence of indebtedness taken in connection with that loan or
33 extension of that credit to be conspicuously marked on the face
34 thereof with the following notice: “NOTICE: ANY HOLDER OF
35 THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL
36 CLAIMS AND DEFENSES THAT THE DEBTOR COULD
37 ASSERT AGAINST THE SELLER OF GOODS OR SERVICES
38 OBTAINED PURSUANT TO THIS CONTRACT OR WITH
39 THE PROCEEDS HEREOF, RECOVERY UNDER THIS
40 CONTRACT BY THE DEBTOR SHALL NOT EXCEED

1 AMOUNTS PAID BY THE DEBTOR UNDER THIS
2 CONTRACT.”

3 (2) If the school or institution or registrant fails to do so, it shall
4 be liable for any damage or loss suffered or incurred by any
5 subsequent assignee, transferee, or holder of that evidence of
6 indebtedness on account of the absence of the specified notification.

7 (b) Notwithstanding the presence or absence of that notification
8 and notwithstanding any agreement in which the student waives
9 the right to assert any claim or defense, the institution or registrant
10 making that loan or extending that credit and the transferee,
11 assignee, or holder of that evidence of indebtedness, shall be
12 subject to all defenses and claims that could be asserted against
13 the institution or registrant that was to render or furnish those
14 educational services by any party to that evidence of indebtedness
15 or by the person to whom these educational services were to be
16 rendered or furnished up to the amount remaining to be paid
17 thereon.

18 (c) Institutions or registrants that participate in federal student
19 assistance programs, and that comply with the financial disclosure
20 and notification requirements for those programs, shall be deemed
21 to be in compliance with the standards prescribed by this section.

22 ~~94861. (a) Every institution shall annually publish a catalog,~~
23 ~~and shall provide this document to students and other interested~~
24 ~~persons, before enrollment. No written contract signed by the~~
25 ~~student shall be enforceable unless the following information has~~
26 ~~been disclosed to the student:~~

27 ~~(1) The specific beginning and ending dates defining the time~~
28 ~~period covered by the catalog.~~

29 ~~(2) A statement of the institution's mission, purpose, and~~
30 ~~objectives as well as the objectives underlying each of its~~
31 ~~educational programs.~~

32 ~~(3) A list of the courses offered in each educational program~~
33 ~~and a brief description of each course including the length of~~
34 ~~programs offered.~~

35 ~~(4) The number of credit hours per unit or units required for~~
36 ~~completion of the educational degree or certificate program, as~~
37 ~~defined by Sections 94724 and 94731.~~

38 ~~(5) The institution's admissions policies including the~~
39 ~~institution's policies regarding the acceptance of units of credit~~
40 ~~earned by the student at other institutions or through challenge~~

1 examinations and standardized tests. If the institution admits
2 students from other countries, it shall disclose the following:

3 (A) Whether English language services, including instruction,
4 are provided and, if so, the nature of the service and its cost.

5 (B) Whether visa services are provided or whether the institution
6 will vouch for student status, and any associated charges.

7 (C) The level of English language proficiency required of
8 students and the kind of documentation of proficiency, such as the
9 Test of English as a Foreign Language (TOEFL) that will be
10 accepted.

11 (6) The institution's policies and procedures for the award of
12 credit for prior experiential learning, including assessment policies
13 and procedures, provisions for appeal, and all charges that a student
14 may be required to pay.

15 (7) The schedule of tuition payments, fees, and all other charges
16 and expenses necessary for the term of instruction and the
17 completion of the program of study.

18 (8) If the student signs an agreement for the entire program, the
19 tuition and all other fees for the total cost of the program shall be
20 detailed. If the student enrolls by the semester or quarter, the
21 catalog shall include: the tuition per unit of credit, the units required
22 per semester or quarter, the number of units required for the degree,
23 a listing of all fees required to be paid and a description of how
24 and when fees are to be paid.

25 (9) The cancellation and refund policies.

26 (10) The institution's policies and practices regarding any form
27 of financial aid, including all consumer information that the
28 institution is required to disclose to the student under any state or
29 federal financial aid program.

30 (11) The institution's standards for student achievement
31 including policy statements for attendance, dropout, and
32 leave-of-absence policies.

33 (12) A description of the facilities and of the types of equipment
34 and materials that will be used for instruction including a disclosure
35 providing the "normal business hours" of the institution's
36 operation.

37 (13) A description of library and other learning resources and
38 the procedures for student access to those resources.

39 (14) A description of all student services including a description
40 of the institution's practices that are designed to foster student

1 interaction for learning purposes, including practices for convening
2 study groups.

3 ~~(15) If an institution represents that it provides employment~~
4 ~~placement services, including contacts with potential employers,~~
5 ~~a statement detailing the nature and extent of the placement services~~
6 ~~and indicating when these services would be available to the~~
7 ~~student.~~

8 ~~(16) Policies on student rights, including the procedure for~~
9 ~~addressing student grievances.~~

10 ~~(17) If the institution offers instruction by correspondence, the~~
11 ~~approximate number of days that will elapse between the~~
12 ~~institution's receipt of student lessons, projects, or dissertations~~
13 ~~and the institution's mailing of its response or evaluation.~~

14 ~~(18) The names of each member of the faculty and their~~
15 ~~individual qualifications to instruct.~~

16 ~~(19) Housing information shall include whether the institution~~
17 ~~has dormitory facilities under its control or the availability of~~
18 ~~housing located reasonably near the institution's facilities and an~~
19 ~~estimation of the approximate cost or range of cost of the housing.~~
20 ~~If the institution has no responsibility to find or assist a student in~~
21 ~~finding housing, the catalog shall include a clear and conspicuous~~
22 ~~statement so indicating. A statement that the program is~~
23 ~~"nonresidential" does not satisfy this provision.~~

24 ~~(20) Policies on the retention of student records including the~~
25 ~~name telephone and address of the custodian of records and shall~~
26 ~~include how long transcripts will be maintained.~~

27 ~~(21) A description of the student's rights under the Student~~
28 ~~Tuition Recovery Fund established pursuant to Article 13~~
29 ~~(commencing with Section 95100).~~

30 ~~(22) All other material facts concerning the institution and the~~
31 ~~program or course of instruction that are reasonably likely to affect~~
32 ~~the decision of the student to enroll, as prescribed by rules and~~
33 ~~regulations adopted by the board.~~

34 ~~(b) Annual updates may be made by the use of supplements or~~
35 ~~inserts accompanying the catalog. If changes in educational~~
36 ~~programs, educational services, procedures, or policies required~~
37 ~~to be included in the catalog by statute or regulation are~~
38 ~~implemented before the issuance of the annually updated catalog,~~
39 ~~those changes shall be reflected at the time they are made in~~
40 ~~supplements or inserts accompanying the catalog.~~

1 ~~(e) If a state board, board, department, or agency has established~~
2 ~~the minimum number of classes or class hours or the minimum~~
3 ~~criteria of a course of instruction necessary for licensure in an~~
4 ~~occupation and an institution offers a course of instruction differing~~
5 ~~from the state entity's minimum requirements, the institution shall~~
6 ~~disclose orally and in writing the state entity's minimum~~
7 ~~requirements and how the course of instruction differs from those~~
8 ~~criteria. The institution shall make this disclosure before a~~
9 ~~prospective student executes an agreement obligating that person~~
10 ~~to pay any money to the institution for the program of instruction.~~

11 94863. (a) Each institution offering a degree program designed
12 to prepare students for a particular vocational, trade, or career field
13 shall provide to each prospective student, and to the board as part
14 of its data reporting requirements a school performance fact sheet
15 disclosing all of the following information:

16 (1) The number and percentage, by gender and ethnicity, of
17 students who begin the institution's program and successfully
18 complete the entire program as originally scheduled. The rate shall
19 be calculated by determining the number of students enrolled in
20 the program who were originally scheduled, at the time of
21 enrollment, to complete the program in a given calendar year
22 divided into the number who successfully completed the program
23 as scheduled.

24 (A) If the institution has offered the program of instruction for
25 less than one calendar year, the following statement shall be
26 included on the school performance fact sheet: "This program is
27 new. Therefore, the number of students who graduate, the number
28 of students who found jobs, or how much money you can earn
29 after finishing this program is unknown at this time. Contact the
30 institution to obtain the most recent information available."

31 (B) An institution shall maintain records of the name, address,
32 and telephone number of students who enroll in a program of
33 instruction, including students who begin the program and students
34 who cancel, and of students who graduate from that program of
35 instruction.

36 (2) The passage rates of graduates, by gender and ethnicity, in
37 each program for the most recent calendar year that ended not less
38 than six months before the date of disclosure on any licensure or
39 certificate examination required by the state for employment in

1 the particular vocational, trade, or career field and for any licensing
2 preparation examination for which data is available.

3 (3) The number and percentage, by gender and ethnicity, of
4 students who complete the program and secure employment in the
5 field for which they were trained. In calculating this rate, the
6 institution shall consider as not having obtained employment, any
7 graduate for whom the institution does not possess evidence,
8 documented in his or her file, showing that he or she has obtained
9 employment in the occupation for which the program is offered.

10 (A) An institution shall inquire whether students who complete
11 a program of instruction obtain employment starting within six
12 months of completing the program in the occupation to which the
13 program of instruction is represented to lead and continue in
14 employment for a period of at least 60 days.

15 (B) The inquiry shall be documented by a list indicating each
16 student's name, address, and telephone number; the employer's
17 name, address, and telephone number; the name, address, and
18 telephone number of the person who provided the information
19 regarding the student's employment to the institution; the name,
20 title, or description of the job; the date the student obtained
21 employment; the duration of the student's employment; information
22 concerning whether the student was employed full time or part
23 time including the number of hours worked per week; and the
24 names, addresses, and telephone numbers of students who choose
25 not to seek employment and instead enroll in another program to
26 earn a higher degree, as well as the name and address of the
27 institution in which they enroll. If the student is self-employed,
28 the list shall include reliable indices of self-employment such as
29 contracts, checks for payment, tax returns, social security
30 contribution records, records of accounts receivable or customer
31 payments, invoices for business supplies, rent receipts, appointment
32 book entries, business license, or any other information required
33 by the board that is a reliable indicator of self-employment.

34 (4) The average annual starting wages or salary of graduates,
35 by gender and ethnicity, of each program, if the institution makes
36 a claim to prospective students regarding the starting salaries of
37 its graduates, or the starting salaries or local availability of jobs in
38 a field. The institution shall disclose to the prospective student the
39 objective sources of information necessary to substantiate the
40 truthfulness of the claim.

(b) Each school that offers or advertises placement assistance for any course of instruction shall file with the board its placement statistics for the 12-month period or calendar year immediately preceding the date of the school's application for annual review for every program of instruction.

(c) The board shall develop standards and criteria to be used by each institution in determining the statistical information required by this section.

(d) The disclosure shall be signed by the institution and the student and be dated. If the solicitation or negotiation leading to the agreement for a program of instruction was in a language other than English, the disclosure shall be in that other language.

94864. (a) Every institution offering an educational program under this chapter shall provide to each prospective student a statement in at least 12-point bold type that contains the following statement:

"Transferability of credit(s) significantly depends upon the receiving college or university. Students are advised that the academic work they complete and that is subsequently reflected on a transcript may or may not be accepted by other colleges or universities. Any student that is considering attending another postsecondary education institution, and in transferring credits, should consult with all such institutions under consideration before signing this enrollment agreement."

(b) The institution may include any affirmative statements of actual transfers as reported in their most recent IPEDS or CPEC report.

(c) The disclosure shall be signed by the institution and the student and dated. If the solicitation or negotiation leading to the agreement for a program of instruction was in a language other than English, the disclosure shall be in that other language. The institution is not precluded from incorporating this disclosure in the enrollment agreement.

94865. (a) ~~The institution~~ (1) *Prior to January 1, 2012, an institution subject to this chapter* shall have and maintain the policy set forth in this article for the refund of the unused portion of tuition fees and other charges if the student does not register for the period of attendance or withdraws from at any time before completion of the courses, or otherwise fails to complete the period of enrollment. The institutional refund policy for students who have completed

60 percent or less of the course of instruction of a degree-granting institution, or less than 100 percent of the course of instruction of a nondegree institution, shall be a pro rata refund. For the purpose of this provision, the maximum fee retained by the institution for application and registration fees, combined, shall be no more than one hundred dollars—~~(\$100.00)~~ (\$100).

(2) An institution shall provide to each student two notices with respect to the approach of the date by which 60 percent of the course of instruction will have been completed and the right to a potential refund will lapse. These notices shall be provided, by being read aloud, and distributed in writing, in the language of instruction, no later than the respective dates by which 40 percent and 50 percent of the course of instruction will have been completed. Each student shall be given a written copy of the notice for him or her to keep, and sign and date another written copy of the notice in class. The institution shall keep the signed and dated copy in the student's file.

(3) The written notice required by paragraph (2) shall be in 14-point type on 8½-inch by 11-inch paper, and shall read as follows:

“STUDENTS: CALIFORNIA LAW REQUIRES THAT THIS NOTICE BE PROVIDED TO YOU BY THIS SCHOOL. UNDER CALIFORNIA LAW, IF YOU DO NOT COMPLETE THIS PROGRAM, YOU MAY BE ENTITLED TO A PARTIAL REFUND OF THE TUITION PAID TO THIS SCHOOL. YOUR RIGHT TO RECEIVE A REFUND EXPIRES ON ____ (date). IF YOU CONTINUE AS AN ENROLLED STUDENT IN THIS SCHOOL AFTER ____ (date), YOU WILL NO LONGER BE ELIGIBLE FOR A REFUND.”

(b) Except as provided in subdivision (c), the refund shall be calculated as follows:

(1) Deduct a registration fee not to exceed one hundred dollars ~~(\$100.00)~~ (\$100) from the total tuition charge.

(2) Divide this figure by the number of hours in the program.

(3) The quotient is the hourly charge for the program.

(4) The amount owed by the student for the purposes of calculating a refund is derived by multiplying the total hours attended by the hourly charge for instruction plus the amount of the registration fee specified in paragraph (1).

1 (5) The refund shall be any amount in excess of the figure
2 derived in paragraph (4) that was paid by the student.

3 (c) For an educational service offered by distance learning, the
4 refund shall be calculated as follows:

5 (1) Deduct a registration fee not to exceed one hundred (\$100)
6 from the total tuition charge.

7 (2) Divide this figure by the number of lessons in the program.

8 (3) The quotient is the per-lesson charge.

9 (4) The amount owed by the student for the purposes of
10 calculating a refund is derived by multiplying the total number of
11 lessons received by the per-lesson charge calculated in paragraph
12 (3) plus the amount of the registration fee specified in paragraph
13 (1).

14 (5) The refund shall be any amount in excess of the figure
15 derived in paragraph (4) that was paid by the student.

16 (d) Institutions subject to federal refund policies shall refund to
17 the student the amount of the unused portion of tuition fee and
18 other charges based upon the calculation that is monetarily
19 equivalent to or greater than the results achieved by the pro rata
20 calculations described in subdivisions (a), (b), and (c).

21 94866. Institutions, for all students, without penalty or
22 obligation, shall refund 100 percent of the amount paid for
23 institutional charges, less a reasonable deposit or application fee
24 not to exceed one hundred dollars (\$100), if notice of cancellation
25 is made before or on the first day of instruction. If the first lesson
26 in a distance learning program is sent to the student by mail, the
27 institution shall send it by first-class mail, postage prepaid,
28 documented by a certificate of mailing, and the student shall have
29 the right to cancel until midnight of the eighth business day after
30 the first lesson was mailed. The institution shall advise each student
31 that any notification of withdrawal or cancellation and any request
32 for a refund are required to be made in writing.

33 94867. The institution shall pay or credit refunds due on a
34 reasonable or timely basis, not to exceed 30 days following the
35 date upon which the student's withdrawal has been determined.

36 94868. The institution shall publish a current schedule of all
37 student charges, a statement of the purpose for those charges, and
38 a statement of the cancellation and refund policies with examples
39 of the application of the policies, and shall provide the schedule
40 to all current and prospective students before enrollment. The

1 schedule shall clearly indicate and differentiate all mandatory and
2 optional student charges. The institution shall include a clear
3 statement written in English describing the procedures that a
4 student is required to follow to cancel the contract or agreement
5 and obtain a refund. If the institution solicited the student or
6 negotiated the agreement in a language other than English, the
7 notice to the student shall be in that same language. The schedule
8 shall specify the total costs of attendance that shall include, but
9 not necessarily be limited to, tuition, fees, assessments for the
10 Student Tuition Recovery Fund, equipment costs, housing,
11 transportation, books, necessary supplies, materials, shop and
12 studio fees, and any other fees and expenses that the student will
13 incur upon enrollment. The schedule shall clearly identify all
14 charges and deposits that are nonrefundable.

15 94869. (a) Any institution or registrant governed by this
16 chapter extending credit or lending money to any person for tuition,
17 fees, or any charges whatever for educational services to be
18 rendered or furnished shall cause any note, instrument, or other
19 evidence of indebtedness taken in connection with that loan or
20 extension of that credit to be conspicuously marked on the face
21 thereof with the following notice:

22 “NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT
23 CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES
24 THAT THE DEBTOR COULD ASSERT AGAINST THE
25 SELLER OF GOODS OR SERVICES OBTAINED PURSUANT
26 TO THIS CONTRACT OR WITH THE PROCEEDS HEREOF,
27 RECOVERY UNDER THIS CONTRACT BY THE DEBTOR
28 SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR
29 UNDER THIS CONTRACT.”

30 (b) If the institution or registrant fails to comply with subdivision
31 (a), it shall be liable for any damage or loss suffered or incurred
32 by any subsequent assignee, transferee, or holder of that evidence
33 of indebtedness on account of the absence of the specified
34 notification.

35 (c) Notwithstanding the presence or absence of that notification
36 and notwithstanding any agreement in which the student waives
37 the right to assert any claim or defense, the institution or registrant
38 making that loan or extending that credit and the transferee,
39 assignee, or holder of that evidence of indebtedness, shall be
40 subject to all defenses and claims that could be asserted against

1 the institution or registrant that was to render or furnish those
2 educational services by any party to that evidence of indebtedness
3 or by the person to whom these educational services were to be
4 rendered or furnished up to the amount remaining to be paid
5 thereon.

6 94870. If the refund calculations set forth in this article cannot
7 be utilized because of the unique way in which an educational
8 program is structured, the board shall determine the details of an
9 alternative refund policy, by regulation, and shall take into
10 consideration the contract for educational services entered into
11 with the student, as well as the length and character of the
12 educational program in determining standards for refunds. The
13 decision of the board shall be final.

14 94871. In addition to withholding institutional services as
15 described in Section 94948, an institution or registrant may
16 withhold a student's transcript or grades if the student is in default
17 on a student tuition contract. If the student has made partial
18 payment of his or her tuition obligation, the institution or registrant
19 may only withhold that portion of the grades or transcript that
20 corresponds on a pro rata basis to the amount of tuition or loan
21 obligation the student has not paid. If the course of study consists
22 of only one course, the institution or registrant may withhold the
23 grades or the transcript until the tuition or loan obligation is paid
24 in full.

25 94872. The approval to operate shall be issued to the owners
26 or the governing body of the applicant institution, and shall be
27 nontransferable. Any person that makes a proper application and
28 complies with this chapter and each standard and regulation
29 pertaining to this chapter shall be qualified to receive an approval
30 to operate or an approval of the transfer of ownership. Institution
31 status and compliance with this chapter shall continue to apply to
32 an institution notwithstanding a change in the institution's
33 ownership, name, or identification number.

34 94873. Every institution or registrant shall designate and
35 maintain an agent for service of process within this state and
36 provide the name, address, and telephone number of the agent to
37 the board. The board shall furnish the agent's name, address, and
38 telephone number to any person upon request. The address
39 provided for the agent for service of process shall not be a post

1 office box and it shall not be the same address as the institution or
2 registrant's primary administrative location.

3 94874. (a) If an institution or registrant is not operating in
4 California when it applies for approval to operate, the institution
5 or registrant shall set forth the name, address, and telephone
6 number of its agent for service of process in the institution's
7 application.

8 (b) If an institution or registrant fails to designate or maintain
9 an agent for service of process pursuant to subdivision (a) and if
10 service on the institution or registrant cannot reasonably be effected
11 in the manner provided in Section 415.10, 415.20, 415.30, or
12 415.40 of the Code of Civil Procedure, the institution or registrant
13 may be served by leaving a copy of the process or any other
14 document within the board and by sending, by first-class mail, a
15 notice of the service upon the board and a copy of the process or
16 other document to the institution or registrant at its last address on
17 file with the board. Service in this manner shall be deemed
18 complete on the 10th day after that mailing to the institution or
19 registrant. Proof of service may be made by a declaration showing
20 compliance with this subdivision.

21 94875. Institutions that provide a specific program of study
22 where the students will need program approval by a specific
23 authority or agency for the students to take an ~~exam~~ *examination*
24 for certification, licensure, or other similar approval allowing the
25 student to perform services in the field of study, shall disclose to
26 the student if the school is not approved. Additionally, the
27 institution shall disclose any action plan and timeline for the
28 program to be approved.

29 94876. (a) Every institution shall meet all of the following
30 performance standards for each program offered during the
31 applicable time period described in this subdivision:

32 (1) Sixty percent or more of the students who began the program,
33 did not cancel pursuant to Section 94858, and were originally
34 scheduled at the time of enrollment to complete the course during
35 that period, shall complete it.

36 (2) Seventy percent or more of the students who completed the
37 program within that period shall obtain employment starting within
38 six months after completing the course in the occupations or job
39 titles to which the course of instruction was represented to lead.
40 For the purpose of this subdivision, "program" or "program of

1 instruction” or “course” or “course of instruction” includes all
2 courses of instruction, however denominated, that are represented
3 to lead to the same or closely related occupations or job titles.

4 (b) Every institution shall meet all of the following performance
5 standards for all programs in the aggregate offered by the institution
6 at each of its campuses during the applicable time period described
7 in this subdivision:

8 (1) Sixty percent or more of all the students who began the
9 programs did not cancel pursuant to Section 94858, and were
10 originally scheduled at the time of enrollment to complete these
11 programs during that time period, shall complete these programs.

12 (2) Seventy percent or more of all the students who completed
13 the programs within that time period shall obtain employment,
14 starting within six months after completing the programs, in the
15 occupations or job titles to which the programs of instruction were
16 represented to lead.

17 (c) For the purposes of subdivisions (a) and (b), students who,
18 as documented by the institution, have been prevented from
19 completing the program or programs of instruction due to death,
20 disability, illness, pregnancy, military service, or participation in
21 the Peace Corps or Domestic Volunteer Service shall be excluded
22 from the computations used to determine whether an institution
23 has met the performance standards prescribed by those
24 subdivisions. Except as provided in Section 94874, an institution
25 shall not disclose the records maintained pursuant to this
26 subdivision unless production of those records are required by any
27 law, subpoena, or court order, or are necessary for a certified public
28 accountant to prepare a compliance report pursuant to subparagraph
29 (G) of paragraph (2) of subdivision (f).

30 (d) An institution shall meet the standards prescribed in
31 subdivisions (a) and (b) at each site at which the program or
32 programs are offered. A determination of whether a particular site
33 meets the standards prescribed in subdivisions (a) and (b) shall be
34 based only on students who attended that site. An institution shall
35 be subject to subdivisions (f) and (g) only with respect to its sites
36 that fail to meet the standards prescribed in subdivisions (a) and
37 (b).

38 (e) (1) This subdivision applies only to institutions in which
39 15 or fewer students began a program or programs, did not cancel
40 pursuant to Section 94858, and were originally scheduled to

1 complete the program or programs within the applicable time
2 period described in subdivision (a) or (b).

3 (2) If an institution described in paragraph (1) fails to meet any
4 of the standards prescribed in subdivision (a) or (b), but would
5 have met that standard if one additional student had completed or
6 obtained employment, the institution shall be deemed to comply
7 with this section. If an institution described in paragraph (1) fails
8 to meet the standard for review established in subdivision (f), but
9 would have met the standard if one additional student had
10 completed or obtained employment, the institution shall be deemed
11 subject to subdivision (f).

12 (f) (1) This subdivision applies only to an institution or any site
13 that fails to meet any of the following:

14 (A) Any of the standards established in subdivision (a) or (b)
15 by 10 percent or less.

16 (B) Any of the standards established in subdivision (a), but has
17 a placement rate of 42 percent or more for the course in which the
18 standard was failed.

19 (C) Any of the standards established in subdivision (b), but has
20 a placement rate of 42 percent or more for all courses in the
21 aggregate.

22 (2) If the institution's failure to meet the standards prescribed
23 in subdivision (a) or (b) was not caused by a violation of this
24 chapter, the board shall order, after notice and, if requested, after
25 a hearing, that the institution implement a program to achieve
26 compliance with subdivisions (a) and (b). The program may include
27 any of the following:

28 (A) Limitations on enrollment for specific courses of instruction.

29 (B) Revision of admission policies and screening practices to
30 ensure that students have a reasonable expectation of completing
31 courses and obtaining employment.

32 (C) Increased academic counseling and other student support
33 services.

34 (D) Improved curricula, facilities, and equipment.

35 (E) Revisions to the qualifications and number of faculty.

36 (F) Improved job placement services, including revisions to the
37 qualifications and number of job placement personnel and the
38 expansion of contacts with employees and state and federal
39 employment development agencies.

(G) Submission of a compliance report prepared by a certified public accountant, who is not an officer, director, shareholder, or employee of the institution, any parent corporation or any subsidiary, prepared pursuant to an attestation engagement in accordance with the Statements on Standards for Attestation Engagements of the American Institute of Certified Public ~~Accountants~~ *Accountants*, that states that the institution has complied with the performance standards in this section within the period set forth in paragraph (4).

(H) Any other reasonable procedure required by the board.

(3) If an institution is subject to an order pursuant to paragraph (2), the board may require that the institution file information or reports requested by the board. The board may also monitor the institution as provided in Article 12 (commencing with Section 95070).

(4) (A) An institution subject to an order pursuant to paragraph (2) shall satisfy the standards established in subdivisions (a) and (b) within the period designated by the board. This period shall not extend more than one year beyond the length of the program for noncompliance with the standards prescribed by subdivision (a) or more than one year beyond the longest program for noncompliance with the standards prescribed in subdivision (b).

(B) If the institution fails to satisfy the standards of subdivision (a) within the period designated by the board, the board shall order the institution to cease offering the course of instruction at the campus where that program was offered. If the institution fails to satisfy the standards of subdivision (b) within the period designated by the board, the board shall revoke the institution's approval to operate, or approval to operate the branch or satellite campus where the programs were offered. No action shall be taken pursuant to this paragraph without notice, and, if requested by the institution, a hearing. In taking action pursuant to this subparagraph, the board shall consider the impact, if any, of changes in the employment rate in the area served by this institution.

(g) If an institution fails to meet any of the standards established in subdivision (a) and does not have a placement rate of 42 percent or more for the program in which the standard was failed, the board shall order the institution to cease offering the program of instruction at the campus where the course was offered. If the institution fails to meet any of the standards prescribed in

1 subdivision (b) and does not have a placement rate of 42 percent
2 or more for all programs in the aggregate, the board shall revoke
3 the institution's approval to operate, or approval to operate the
4 branch or satellite campus where the programs were offered. No
5 action shall be taken pursuant to this subdivision without notice
6 and, if requested by the institution, a hearing.

7 (h) (1) The institution shall have the burden of proving its
8 compliance with this section.

9 (2) The board shall investigate the institution as the board deems
10 appropriate to verify the institution's compliance with this section.
11 ~~The investigation~~ *The board shall develop and promulgate*
12 *regulations providing for the recordkeeping necessary for an*
13 *institution to demonstrate compliance with this section. An*
14 *investigation under this section* shall include an examination of
15 the records maintained by the institution pursuant to subdivision
16 (j) and contacts with the students and employers.

17 (3) If an institution willfully falsifies, alters, destroys, conceals,
18 or provides untrue or misleading information relating to compliance
19 with this section, including records maintained pursuant to
20 subdivision (j), the board shall revoke the institution's approval
21 to operate. No action shall be taken pursuant to this paragraph
22 without notice and, if requested by the institution, a hearing. This
23 provision supplements but does not supplant any other penalty or
24 remedy provided by law.

25 (4) The institution shall pay all reasonable costs and expenses
26 incurred by the board in connection with this section at a time
27 designated by the board.

28 (i) If the board, pursuant to subdivision (f) or (g), orders an
29 institution to cease offering a program of instruction or revokes
30 the approval of an institution to operate or operate a branch or
31 satellite campus, the institution may apply, no sooner than two
32 years after the date the order to cease or the revocation became
33 effective, for approval to offer that program or for approval to
34 operate. Before the board may grant any approval, the institution
35 shall establish that it complies with this chapter, each program
36 satisfies all of the minimum standards prescribed by this chapter,
37 and the circumstances surrounding the institution's failure to meet
38 the requirements of this section have sufficiently changed so that
39 the institution will be substantially likely to comply with this
40 section.

(j) An institution shall maintain records of the name, address, and telephone number of students who enroll in a program of instruction, including students who begin the program and students who cancel pursuant to Section 94858, and of students who graduate from that program of instruction. An institution shall inquire whether students who complete a program of instruction obtain employment starting within six months of completing the program in the occupation to which the program of instruction is represented to lead and continue in employment for a period of at least 60 days. The inquiry shall be documented by a list indicating each student's name, address, and telephone number; the employer's name, address, and telephone number; the name, address, and telephone number of the person who provided the information regarding the student's employment to the institution; the name, title, or description of the job; the date the student obtained employment; the duration of the student's employment; information concerning whether the student was employed full time or part time, including the number of hours worked per week; and the names, addresses, and telephone numbers of students who choose not to seek employment and instead enroll in another program to earn a higher degree, as well as the name and address of the institution in which they enroll. If the student is self-employed, the list shall include reliable indices of self-employment such as contracts, checks for payment, tax returns, social security contribution records, records of accounts receivable or customer payments, invoices for business supplies, rent receipts, appointment book entries, business license, or any other information required by the board that is a reliable indicator of self-employment.

(k) For the purposes of this section, the following definitions shall apply:

(1) "Annual report" means the report required to be filed pursuant to Section 94802.

(2) (A) "Employment" means either of the following:

(i) Full-time employment with a single employer for at least 32 hours per week for a period of at least 60 days in the occupations or job titles to which the program of instruction is represented to lead.

(ii) Part-time employment with a single employer for at least 17.5 hours, but less than 32 hours, per week for a period of at least

1 60 days in the occupations or job titles to which the program of
2 instruction is represented to lead, provided that the student
3 completes a handwritten statement at the beginning of the program
4 and at the end of the program that states that the student's
5 educational objective is part-time employment. The institution
6 shall not require that any student complete such a statement or
7 provide any incentive, financial or otherwise, to any student for
8 signing such a statement.

9 (B) The board shall adopt regulations to specify the job tasks,
10 other than those directly related to generating income, that may
11 be counted towards meeting the hour requirements for full-time
12 and part-time employment for students who are self employed.

13 (3) "Hearing" means a hearing as defined in Section 94741.

14 (4) "Placement rate" means the percentage of students who
15 fulfilled both of the following conditions:

16 (A) Began the program, did not cancel pursuant to Section
17 94858, and were originally scheduled at the time of enrollment to
18 complete the program during the applicable time period described
19 in subdivision (I).

20 (B) (i) Completed the program, within the applicable time
21 period described in subdivision (I) and started employment within
22 six months of completing the program or, if employment requires
23 taking a state licensure examination for which only graduates of
24 the program may apply, then did either of the following:

25 (I) Started employment within six months of the date on which
26 the state licensing agency announces the results of the first
27 licensure examination reasonably available to students who
28 completed the program.

29 (II) Started employment within six months of the next
30 reasonably available licensure examination date for any student
31 who did not receive passing results on the first exam.

32 (ii) The time period determined pursuant to this subparagraph
33 shall not exceed 10 months beyond the date of completion of the
34 program of instruction. The institution shall retain a record of the
35 date of the first reasonably available licensure exam following the
36 completion date of each student, the date the licensure agency
37 announces the results of the first reasonably available licensure
38 exam, and the date of the next reasonably available licensure exam
39 for each student who did not pass the first exam.

1 (5) “Reporting period” means the institution’s fiscal year or any
2 year period designated by the board to be covered in the
3 institution’s annual report.

4 (6) “Time period” means the two most recent calendar years
5 that ended at least eight months before the end of the institution’s
6 applicable reporting period.

7 (l) (1) An institution’s compliance with the standards prescribed
8 in subdivisions (a) and (b) shall be determined as of the date on
9 which the institution’s reporting period ends.

10 (2) The institution shall report its determination of its
11 compliance with the standards established in subdivisions (a) and
12 (b) in each annual report.

13 (3) The board may adjust the meaning of “time period,” if the
14 board finds that an adjustment is necessary for the efficient
15 administration of this section. If any adjustment is made in the
16 annual reporting periods, the board may adjust when the time
17 period commences, but shall not alter the two-year length of the
18 period.

19 (m) In determining the placement rate for a particular time
20 period as described in subdivision (l), an institution may exclude
21 from the determination a student whose completion date was
22 extended beyond that time period if the extension was requested
23 by the student in writing on an enrollment agreement modification
24 request form that meets specifications established by the board.
25 The form shall include instructions to the student indicating that,
26 when signed by both the student and the institution, the request
27 modifies the existing agreement. The form shall not be valid unless
28 it provides space for the student to complete a handwritten
29 description, in the student’s handwriting, of the reasons
30 necessitating the extension that are distinctly personal to the student
31 and unrelated to the provision of educational services or activities
32 of the institution, contains the new expected completion date of
33 the program, and is signed and dated by the student and the
34 institution. The institution shall provide the student a copy of the
35 signed modification request form. The institution shall retain the
36 student’s original written request to modify the enrollment
37 agreement with the original enrollment agreement. A student
38 excluded from the placement rate determination for a particular
39 time period pursuant to this subdivision shall be included in the
40 placement rate determination for the next immediately following

1 time period. The institution shall state in the institution's annual
2 report the number of students for whom an extension was granted.

3 (n) In determining the placement rate for a particular time period
4 as described in subdivision (l), an institution may exclude from
5 the calculation a student who either:

6 (1) Decides not to obtain employment and, within six months
7 of completing the program, enrolls in a program to continue his
8 or her education to obtain a higher level degree that is related to,
9 or provides for the student to use, the same skills or knowledge
10 obtained in the program the student completed.

11 (2) Is in possession at the completion of the program of a valid
12 United States Immigration and Naturalization Service Form I-20.

13 (o) In determining the placement rate for a particular time period
14 as described in subdivision (l), an institution may count a student
15 who drops out of the program after completing at least 75 percent
16 of the program because the student has obtained employment that
17 lasts for a period of at least 60 days in the occupations or job titles
18 to which the program of instruction is represented to lead. No more
19 than 10 percent of the institution's total number of placed students
20 may be counted pursuant to this subdivision.

21 (p) If an order to cease offering a program or a revocation is
22 issued pursuant to this section, the board may permit the institution
23 to continue to offer the program or programs of instruction to the
24 students who had begun the course or courses before the effective
25 date of the order or revocation or may order the institution to cease
26 instruction and provide a refund of tuition and all other charges to
27 students.

28 (q) (1) *When the board audits for compliance with the*
29 *requirements of this section, the board shall examine the causes*
30 *for deficiencies, which may include, but not necessarily be limited*
31 *to, any of the following:*

32 (A) *The quality of instruction provided.*

33 (B) *The qualifications and expertise of the instructors.*

34 (C) *The quality of the instructional materials.*

35 (D) *The quality of the hands-on experience provided through*
36 *the program.*

37 (E) *The workforce needs of the marketplace.*

38 (2) *The board may require an institution to execute a corrective*
39 *action plan to address any identified causes of deficiencies. The*

1 board is authorized to take other enforcement measures that it
2 deems necessary.

3 94877. (a) An institution subject to this chapter shall do all
4 of the following:

5 (1) If it maintains a preferred lender list, include a minimum of
6 three lenders on that list for both federal and private loans.

7 (2) Clearly and fully disclose to its students the criteria and
8 process used to select preferred lenders.

9 (3) Clearly and fully disclose to its students their right and
10 ability to choose a lender of their choice irrespective of whether
11 the lender is on a preferred lender list.

12 (4) Clearly and fully disclose to its students all of their options
13 for obtaining financial aid, including information on any options
14 for borrowing under federal or state financial aid programs for
15 which its students may be eligible.

16 (5) Clearly and fully disclose to its students, prior to their
17 becoming obligated to repay loans, the true expected monthly and
18 total cost of all of their respective loans.

19 (6) Clearly identify the distinction between a borrower's federal
20 and private loans, and the respective loan terms and protections
21 available by type of loan, in a student's financial aid package.

22 (7) Clearly disclose the volume of private loans, and provide
23 information relating to borrower profits and interest rates for
24 preferred lenders, without including any personally identifiable
25 data regarding borrowers.

26 (b) An institution subject to this chapter, and each of its officers
27 and employees, are prohibited from doing any of the following:

28 (1) Receiving, from any lending establishment that provides
29 private student loans, anything of value in exchange for any
30 advantage sought by the lending establishment.

31 (2) Receiving anything of value for serving on an advisory board
32 or committee of any establishment that provides credit for private
33 student loans.

34 (3) Recommending, to any of its students, a lender that provides
35 private student loans if that lender has an agreement to sell its
36 loans to another lender without disclosing that fact to the student.

37 (4) Recommending a lender that provides private student loans
38 to either of the following:

1 (A) A student who is not maintaining satisfactory progress in
2 a program or course of study, according to that institution's stated
3 and disclosed policies.

4 (B) A student who the officer or employee of the institution
5 knows has previously defaulted on a student loan.

6 (5) Permitting a lender's officers or employees to act as staff
7 for any of the institution's financial aid or other offices, or to
8 provide counseling on behalf of that institution.

10 Article 7. Standards

11
12 94900. No private postsecondary educational institution may
13 issue, confer, or award a professional, academic or honorary degree,
14 unless the institution is approved by the board to operate. The
15 board shall not issue an approval under Article 8 (commencing
16 with Section 94950) until it has conducted a qualitative review
17 and assessment of, and has approved, each degree program offered
18 by the institution, and all of the operations of the institution, and
19 has determined all of the following:

20 (a) The institution has the facilities, financial resources,
21 administrative capabilities, faculty, and other necessary educational
22 expertise and resources to ensure its capability of fulfilling the
23 program or programs for enrolled students.

24 (b) The faculty is fully qualified to undertake the level of
25 instruction that they are assigned and shall possess degrees or
26 credentials appropriate to the degree program they teach and have
27 demonstrated professional achievement in the major field or fields
28 offered, in sufficient numbers to provide the educational services.

29 (c) The education services and curriculum clearly relate to the
30 objectives of the proposed program or programs and offer students
31 the opportunity for a quality education.

32 (d) The facilities are appropriate for the defined educational
33 objectives and are sufficient to ensure high quality educational
34 services to the students enrolled in the program or programs.

35 (e) If an institution represents that a program leads to
36 employment, the quality, content, and instruction of the program
37 shall be sufficient to ensure that students may acquire the necessary
38 level of education, training, skill, and experience to obtain
39 employment in the occupation or job title to which the program
40 of instruction is represented to lead.

(f) The institution provides adequate student advisement services, academic planning and curriculum development activities, research supervision for students enrolled in Ph.D. programs, and clinical supervision for students enrolled in various health profession programs.

(g) If the institution offers credit for prior experiential learning it may do so only after an evaluation by qualified faculty and only in disciplines within the institution's curricular offerings that are appropriate to the educational program to be pursued.

(h) The institution maintains for at least five years written records of each student's previous education for which credit was granted.

(i) A copy of the course outlines; *and a* description of the occupations or job titles, if any, to which the course of instruction is represented to lead.

(j) The institution maintains and enforces adequate standards relating to, and maintains records of, attendance, satisfactory academic progress, and student performance to achieve the objective described in subdivision (e).

(k) The institution complies with all local city, county, municipal, state, and federal regulations relative to the safety and health of all persons upon the premises such as fire, building, and sanitation codes. The board may require evidence of compliance.

(l) Application for approval shall be made in writing on forms prescribed by the board.

94901. (a) Each institution shall have a written statement of its mission, purposes, and objectives that clearly exemplify its educational reasons to exist. The mission, purposes, and objectives shall indicate the kind of education offered, for whom the instruction is intended, and the expected outcomes for graduates. The institution shall document that its ~~educational programs and~~ educational programs are based on its stated mission, purposes, and objectives, and that its facilities and equipment, financial resources, administrative capabilities, faculty, library and other learning resources, and student services are sufficient to achieve its stated mission, purposes, and objectives. The mission shall have both of the following characteristics:

(1) The mission shall include the institution's broad expectations concerning the education that students will receive, including the acquisition of the body of knowledge presented in the educational

1 program, the development of intellectual, analytical, and critical
2 abilities, and the fostering of values such as a commitment to
3 pursue lifelong learning.

4 (2) The mission shall relate to the educational expectations of
5 the institution's students and faculty and the community served
6 by the institution.

7 (b) The institution's objectives shall clearly describe how the
8 institution will transform its mission into measurable student
9 learning outcomes. The purposes or goals established by each
10 institution shall describe the methods or educational emphases
11 chosen by an institution to fulfill its mission. The institution's
12 purposes relate to why the institution was founded, its particular
13 point of view, its unique or special character, and its relationship
14 to the community it serves.

15 94902. (a) Each owner, director, and administrator of an
16 institution shall expend or authorize the expenditure of the
17 institution's assets and funds, including tuition, fees, and other
18 charges collected from or on behalf of students, in a diligent and
19 prudent manner to ensure that students receive the education and
20 student services that were represented to the students and that meet
21 the requirements of this chapter.

22 (b) Each owner, director, and administrator of an institution has
23 the duty to act in the utmost good faith to take all reasonable steps
24 within his or her capacity to cause the institution to comply with
25 all applicable law and to correct the effects of noncompliance.

26 (c) Each owner, director, and administrator of an institution
27 shall immediately disclose to the board evidence that the institution
28 or any person connected with the institution has engaged in fraud,
29 misrepresentation, misappropriation of funds, or any violation of
30 law prosecutable as a felony, except that no disclosure is required
31 of any matter privileged under Section 940 of the Evidence Code.

32 94903. (a) The curriculum shall present those subject areas
33 that are necessary for a student to achieve the educational
34 objectives of the educational program in which the student is
35 enrolled. The institution shall maintain a course outline for each
36 course offered.

37 (b) Graduation requirements for undergraduate degree programs
38 shall include provisions for general education appropriate to the
39 level and type of degree.

1 (1) Associate degrees shall be awarded only to students who
2 complete at least the learning outcomes equivalent to a minimum
3 of 60 semester units or 90 quarter units of credit.

4 (A) The associate in arts and associate in science degrees may
5 be awarded only to students whom the institution can document
6 have achieved sequential learning equivalent in breadth of
7 knowledge and understanding (i.e., general education) to that
8 acquired in two years of college study beyond high school, as
9 measured by a minimum of 60 semester units or its equivalent in
10 other units of credit.

11 (i) Academic associate degrees shall designate at least 25 percent
12 of the requirements for the associate degree and the bachelor's
13 degree shall be in general education. General education offered as
14 part of these programs shall be necessary for a student to achieve
15 the educational objectives of the program in which he or she is
16 enrolled.

17 (ii) General education shall also be at the same level of quality
18 as that taught in bachelor's or associate degree programs that are
19 approved pursuant to Article 8 (commencing with Section 94950).

20 (iii) General education shall consist of courses and other
21 organized educational activities designed to introduce students to
22 each of the major divisions of formal learning such as the natural
23 sciences, the social sciences, the humanities, the skills of writing
24 and speaking, and mathematics. The institution shall specify the
25 distribution of general education requirements by subject area for
26 each undergraduate degree program.

27 (B) The associate of occupational studies or associate of applied
28 science degree shall designate a minimum of 75 percent of the
29 curriculum shall be in the occupational area for which training is
30 offered. Currently approved institutions that have been approved
31 to offer vocational degree programs with degree titles that are not
32 designated as either an associate of occupational studies or
33 associate of applied science shall have until January 1, 2010, to
34 comply with this section.

35 (2) The bachelor's degree may be awarded to students who the
36 institution can document have achieved sequential learning
37 equivalent in breadth of knowledge and understanding (i.e., general
38 education) and equivalent in depth of achievement in a designated
39 major field to that acquired in four years of study beyond high

1 school, as measured by a minimum of 120 semester units or its
2 equivalent in other units of credit.

3 (3) The master's degree may only be awarded to students who
4 demonstrate at least the achievement of learning in a designated
5 major field that is equivalent in depth to that normally acquired in
6 a minimum of 30 semester units or its equivalent in other units of
7 credit or one year of study beyond the bachelor's degree.

8 (A) No more than 25 percent of the units required for graduate
9 degree programs may be awarded for a final product such as a
10 thesis, dissertation, or product.

11 (B) Dissertations, theses, and other work products submitted
12 by students as part of a graduate program shall be signed by all
13 faculty members recommending the student for an award of a
14 degree.

15 (4) Doctorate degrees may be awarded only to students who
16 have completed a prescribed level of study normally requiring a
17 minimum of three academic years of full-time graduate study or
18 the equivalent in part-time study; or, if the program leads to a
19 profession or occupation requiring state licensure, who satisfy the
20 requirements of the state agency.

21 (A) Programs leading to doctorate degree shall include
22 substantial instruction in both theory and research at advanced
23 levels in a designated field and specialty. Each educational program
24 leading to a doctorate degree shall involve preparation for
25 scholarship and systematic inquiry that includes research
26 methodology and who have demonstrated learning achievement
27 through original research directly attributable to the student.

28 (B) Each doctorate program shall include a minimum of two
29 formal evaluations of the student by a doctoral committee.

30 (i) The first evaluation shall consider the student's qualifications,
31 including the student's knowledge, skills, and conceptual
32 framework, for undertaking rigorous inquiry into the student's
33 designated field.

34 (ii) The second evaluation shall consider the design procedures
35 and products of a formal original inquiry proposed and completed
36 by the student.

37 (C) The doctoral committee shall be composed of at least three
38 members of the institution's own faculty. The faculty who serve
39 on each student's doctoral examining committee shall comply with
40 Section 94905.

(D) The formal evaluation procedures shall provide the committee as a whole with the opportunity to jointly examine the candidate. If the candidate is not physically present and the evaluation shall take place by telephone or other means of electronic communication, one of the following shall apply:

(i) One faculty member on the student's doctoral committee from the main location in the state in which the program is licensed or otherwise officially approved shall be present at the location where the doctoral student is examined.

(ii) A proctor, selected and approved by the doctoral committee, shall sit as an observer with the student at the distant location and verify, under penalty of perjury under the laws of the State of California, the identity of the student and the facts that the student received no prompting by anyone and did not have access to unallowed materials during the evaluation process.

(E) If a project includes more than one student, the individual student's role and contributions shall be clearly identified and documented.

(F) The institution shall maintain a written record of the evaluations. This record shall include the names and signatures of all committee members who participated in the evaluations.

(c) If an institution applying for approval seeks board approval to offer a degree in an emerging new field of study, the institution shall submit written documentation establishing that the field of study is based on new or unique applications of information derived from established principles, theories, and bodies of knowledge from disciplines generally recognized in higher education. The board recognizes that new or unique applications of information may be stimulated by a variety of sources including new social and economic trends.

(1) If the institution establishes that the subject matter area is appropriate for instruction or instruction leading to a degree, the director shall include on the visiting committee professional educators with expertise, as described in paragraph (2) of subdivision (d), to evaluate the institution's proposed offer of instruction or a degree program in the emerging new field of study.

(2) If the board grants approval to the institution to offer a degree in an emerging field of study, the institution shall disclose in its catalog and a separate written notice provided to students before enrollment that the educational service in the emerging new field

1 and will have limited, if any, transferability, to other institutions
2 because of the nature of the emerging subject matter.

3 (d) If an institution seeks approval to award a degree in an
4 emerging field of study, the institution shall comply with
5 subdivision (c) and submit to the board documentation, including
6 research, publications, written curriculum, and course materials,
7 establishing to the reasonable satisfaction of the board and a special
8 committee appointed by the executive director that the emerging
9 field of study should be recognized as a discipline for degree study
10 in higher education. The special committee shall consist of a team
11 of professional educators in disciplines related to the emerging
12 new field that are affiliated with accredited or board-approved
13 degree-granting institutions.

14 (e) (1) *If an institution seeks to add an additional class or*
15 *program within its area of expertise, the institution shall not be*
16 *required to submit this additional class or program to the board*
17 *for approval unless that institution is under probation or has been*
18 *required to execute a corrective action plan. However, the*
19 *institution shall notify the board of any addition of a class or*
20 *program on a form prescribed by the board.*

21 (2) *If an institution seeks to add an additional class or program*
22 *that is outside its area of expertise, the institution shall be required*
23 *to submit this additional class or program to the board for prior*
24 *approval.*

25 94904. Instruction shall be the central focus of the resources
26 and services of the institution. The institution shall document that
27 the instruction offered leads to the achievement of the learning
28 objectives of each course.

29 (a) Direct instruction requires the physical presence of one or
30 more students and one or more faculty members at the same
31 location. Direct instruction includes instruction presented in a
32 classroom, seminar, workshop, lecture, colloquium, laboratory,
33 tutorial, or other physical learning settings consistent with the
34 mission, purposes, and objectives of the institution.

35 (b) Indirect instruction does not require the physical presence
36 of students and faculty at the same location but provides for
37 interaction between students and faculty by such means as
38 telecommunication, correspondence, electronic and computer
39 augmented educational services, postal service, and facsimile
40 transmission.

1 (c) An institution offering a degree program by correspondence
2 instruction shall comply with all of the following:

3 (1) The institution shall mail the first lesson and the initial
4 correspondence material to the student within seven days after the
5 institution accepts the student for admission.

6 (2) The student shall have the right to cancel the agreement and
7 receive a full refund before the first lesson and initial
8 correspondence material are received. Cancellation is effective on
9 the date written notice of cancellation is mailed. The institution
10 shall make the refund within 30 days of cancellation. If the
11 institution sent the first lesson and materials before an effective
12 cancellation notice was received, the institution shall make a refund
13 within 30 days after the student's return of the correspondence
14 material.

15 (3) An institution shall mail all of the lessons and other material
16 to the student if the student has fully paid for the program and
17 requests all of the material in writing after having received the first
18 lesson and initial correspondence material.

19 (4) If an institution mails the balance of the material as the
20 student requests, the institution shall remain obligated to provide
21 the other educational services it agreed to provide, such as
22 responses to student inquiries, student and faculty interaction, and
23 evaluation and comment on lessons submitted by the student but
24 shall not be obligated to pay any refund after all of the lessons and
25 material are mailed.

26 (d) The institution shall notify the board 30 days before the
27 discontinuation of an educational program and immediately upon
28 the decision to eliminate any instruction or other educational
29 service offered by the institution.

30 (e) If an institution proposes to use innovative or unique methods
31 of instruction in degree programs, the institution shall demonstrate
32 to the reasonable satisfaction of the board and a special committee
33 appointed by the executive director that the proposed method has
34 a demonstrable value as a method of delivering concepts and
35 information, leads to the measurable learning outcomes stated by
36 the institution, and is clearly explained to the students before their
37 enrolling in the course in which the method will be used.

38 94905. (a) Faculty shall possess adequate academic,
39 experiential, and professional qualifications to teach the course or
40 to perform the duties that the person is assigned, and shall satisfy

1 all standards established by the board. Each institution shall employ
2 or contract with qualified faculty sufficient in number to provide
3 the instruction, student advisement, and learning outcomes
4 necessary for the institution to document its achievement of its
5 stated mission, purposes, and ~~objectives~~ and *objectives, and to*
6 effectuate the learning objectives for each student enrolled. The
7 majority of the institution's faculty shall possess a diverse
8 educational background, that shall be demonstrated in part by
9 earned degrees from a variety of colleges and universities or by
10 credentials generally recognized in the field of instruction.

11 (b) When employing or contracting for educational services,
12 the institution shall maintain control of, and responsibility for, all
13 academic matters, and shall ensure that the instruction and faculty
14 satisfy the standards established by this chapter.

15 (c) Faculty shall have all of the following qualifications:

16 (1) Faculty shall possess a degree from an institution approved
17 or authorized by the Superintendent of Public Instruction, approved
18 by the former council or bureau, currently approved by the Board
19 for Private Postsecondary Education, or a public or private
20 institution that is accredited by an agency recognized by the United
21 States Department of Education. Faculty that possess earned
22 degrees from ~~institution~~ *institutions* outside of the United States
23 shall be graduates from institutions recognized by their government
24 and their transcripts shall be translated into English and be
25 evaluated by the American Association of Collegiate Registrars
26 and Admissions Officers (AACRAO) or a member of the National
27 Association of Credential Evaluation Services (NACES) to
28 determine the equivalency of the degree to those degrees awarded
29 in the United Sates from institutions accredited by an agency
30 recognized by the United States Department of Education or
31 approved by the Board ~~of~~ *for* Private Postsecondary Education.

32 (2) Faculty teaching in undergraduate degree programs shall
33 possess a bachelor's degree, at a minimum.

34 (3) Faculty teaching academic general education and other
35 academic courses shall ~~possess at a minimum fifteen~~ *possess, at*
36 *a minimum, 15* semester or equivalent credit hours of coursework
37 successfully completed from undergraduate or graduate degrees
38 in the subject area they are assigned to instruct.

39 (4) Faculty teaching technical and occupationally related
40 courses, including applied general education, shall have a minimum

1 of three years of related practical experience in the subject areas
2 taught.

3 (5) Faculty teaching in master's level degree programs shall
4 possess a graduate degree, at a minimum. Fifty percent of the
5 faculty assigned to teach a master's degree program shall possess
6 terminal degrees. Professional certification is not an appropriate
7 alternative or a terminal degree.

8 (6) Faculty teaching in doctorate level degree programs shall
9 possess a doctorate degree, at a minimum. Fifty percent of the
10 faculty assigned to teach a doctorate degree program shall possess
11 terminal degrees from institutions accredited by an accrediting
12 association recognized by the United ~~State~~ *States* Department of
13 Education. Professional certification is not an appropriate
14 alternative or a terminal degree.

15 (i) Faculty shall have been active in their field of scholarship
16 or profession within the five-year period preceding their contract
17 to instruct in doctoral programs.

18 (ii) Following the acquisition of a doctorate degree, faculty shall
19 have three or more years of field or research experience related to
20 their earned doctorate degree.

21 (7) Faculty for a program that leads to licensure shall possess
22 at least three years' experience in the occupation or job title
23 category for which the licensure is sought.

24 (8) No person shall serve as faculty if that person has been
25 convicted of, or has pled nolo contendere or guilty to, a crime
26 involving the acquisition, use, or expenditure of federal or state
27 funds, or who has been judicially or administratively determined
28 to have committed any violation of this chapter or of any law
29 involving state or federal funds, or committed any act that would
30 constitute grounds for the denial of a license under Section 480 of
31 the Business and Professions Code.

32 ~~(e)~~

33 (d) The institution shall maintain current records for a period
34 of not less than five years at its principal place of business in
35 California, that are immediately available during normal business
36 hours for inspection and copying by the board or the Attorney
37 General and showing all of the following:

38 (1) The names and addresses of its faculty together with a record
39 of the educational qualifications of each.

1 (2) Certified copies of educational transcripts. A transcript
2 bearing the notation “issued to student” shall not be considered an
3 official transcript evidencing qualified faculty.

4 (3) Verified employment history.

5 (4) Teaching assignments and other duties assigned for each
6 academic year whereby the faculty member entered into an
7 agreement with the institution to conduct one or more of the
8 courses in the institution’s curriculum or is responsible for advising
9 and consulting with individual students or facilitating and
10 evaluating student learning outcomes and progress.

11 (5) The institution shall maintain for each member of the faculty
12 a validated transcript evidencing the annual completion of three
13 continuing education units of recognized inservice training in their
14 education, job title category, or employment field at the main
15 location. These units may be completed through inservice training
16 offered by accrediting associations or professional organizations.

17 (6) Each faculty member’s job performance shall be assessed
18 annually, at a minimum, and documentation shall be evidenced in
19 the faculty member’s personnel file. The duties, responsibilities,
20 and performance evaluation criteria for each faculty member shall
21 be evidenced in the personnel file of each faculty member.

22 ~~(d)~~

23 (e) Each institution shall develop and implement written policies
24 and procedures providing for the participation of qualified faculty
25 in the conducting of research, development of curricula, academic
26 planning, enforcement of standards of academic quality, pursuit
27 of academic matters related to the institution’s mission, purposes,
28 and objectives, and the establishment of criteria for contracting
29 new faculty, and evaluation of faculty credentials and instructional
30 effectiveness, such as peer review.

31 ~~(e)~~

32 (f) Each institution shall have a written academic freedom policy
33 that describes the conditions under which scholars and faculty are
34 allowed latitude with respect to their discussions with students that
35 may include controversial concepts and positions without fear of
36 retribution or reprisal. This written policy shall be made available
37 to any person upon request. The institution shall not take adverse
38 action based on a faculty member’s exercise of academic freedom
39 consistent with the institution’s policy.

1 94906. (a) The institution shall have sufficient facilities and
2 necessary equipment to support the achievement of the educational
3 objectives of all of the courses and educational programs in which
4 students are enrolled.

5 (b) The institution's facilities, including heating and cooling,
6 ventilation, lighting, classrooms, laboratories, and campus environs,
7 shall be well maintained. The institution shall adopt safety and
8 security procedures necessary to protect students and shall comply
9 with Section 94380, if applicable.

10 (1) The institution's physical facilities, and any equipment used
11 on the institution's premises or sold to students, shall comply with
12 applicable health and safety requirements. The institution's
13 facilities and equipment shall be used in accordance with health
14 and safety requirements.

15 (2) The institution shall maintain on file all valid permits
16 required by public agencies relating to the health and safety of the
17 institution's facilities and equipment.

18 94907. (a) Each institution shall have qualified administrative
19 personnel fully capable of accomplishing the mission, purposes,
20 and objectives of the institution.

21 (1) Each owner, director, and administrator of an institution has
22 the duty to act in the utmost good faith to take all reasonable steps
23 within his or her capacity to cause the institution to comply with
24 all applicable law and to correct the effects of noncompliance.

25 (2) Each owner, director, and administrator of an institution
26 shall immediately disclose to the board evidence that the institution
27 or any person connected with the institution has engaged in fraud,
28 misrepresentation, misappropriation of funds, or any violation of
29 law prosecutable as a felony, except that no disclosure is required
30 of any matter privileged under Section 940 of the Evidence Code.

31 (3) Each owner, director, and administrator of an institution
32 shall expend or authorize the expenditure of the institution's assets
33 and funds, including tuition, fees, and other charges collected from
34 or on behalf of students, in a diligent and prudent manner to ensure
35 that students receive the education and student services that were
36 represented to the students and that meet the requirements of this
37 chapter.

38 (b) Each institution shall have a chief executive officer, a chief
39 operating officer, and a chief academic officer, at a minimum. One
40 person may serve more than one function.

1 (1) The chief executive officer shall be the individual primarily
2 responsible for the overall administration of the institution,
3 including the supervision of the chief operating officer and the
4 chief academic officer.

5 (2) The chief academic officer is the individual primarily
6 responsible for the administration of an institution's academic
7 affairs including the supervision of faculty, development of
8 educational programs and curricula, and implementation of the
9 institution's mission, purposes, and objectives. The chief academic
10 officer shall possess a degree and equivalent acceptable experience
11 at least equal to the highest qualifications required of the
12 institution's faculty.

13 (3) The chief operating officer shall be the individual primarily
14 responsible for the administration of an institution's business
15 operations, including finances, management, personnel, and the
16 contracting of goods, services, and property.

17 (c) Financial aid directors shall have five years of experience
18 in an administrative position in the financial aid office of a public
19 or board approved private postsecondary school. Financial aid
20 officers shall possess verification of completion within the previous
21 two years of training seminar or workshop certified by the Student
22 Aid Commission as providing up-to-date comprehensive
23 information on financial aid programs and policies.

24 (d) No person shall serve in an administrative position if that
25 person has been convicted of, or has pled nolo contendere or guilty
26 to, a crime involving the acquisition, use, or expenditure of federal
27 or state funds, or who has been judicially or administratively
28 determined to have committed any violation of this chapter, any
29 law involving state or federal funds, or committed any act that
30 would constitute grounds for the denial of a license under Section
31 480 of the Business and Professions Code.

32 (e) The duties, responsibilities, and performance evaluation
33 criteria for each administrator shall be set forth in a personnel
34 manual or equivalent maintained by the institution. The written
35 document shall include a current organizational chart that illustrates
36 the governance and administrative structure of the institution and
37 the relationship between the faculty and the administrative
38 positions.

39 (f) The institution shall maintain current records for a period of
40 not less than five years at its principal place of business in

1 California. These records shall be immediately available during
2 normal business hours for inspection and copying by the board or
3 the Attorney General, and shall show all of the following:

4 (1) The names and addresses of its administrators together with
5 a record of the educational and experiential qualifications of each.

6 (2) The chief academic officer records shall include certified
7 copies of educational transcripts. A transcript bearing the notation
8 “issued to student” shall not be considered an official transcript
9 evidencing a qualified chief academic officer.

10 (3) Verified employment history.

11 (4) Each administrator’s job performance will be assessed
12 annually, at a minimum, and documentation shall be evidenced in
13 the administrator’s personnel file. The duties, responsibilities, and
14 performance evaluation criteria for each administrator shall be
15 evidenced in the personnel file of each administrator.

16 (5) Administrators shall maintain a validated transcript
17 evidencing the annual completion of three continuing education
18 units of recognized inservice training in their education, job title
19 category, or employment field at the main location. These units
20 may be completed through inservice training offered by accrediting
21 associations or professional organizations.

22 94908. (a) The institution shall maintain a file for each student
23 who enrolls in the institution whether or not the student completes
24 the educational service. Every institution shall maintain for a period
25 of not less than five years at its principal place of business in
26 California accurate records that show all of the following:

27 (1) The names, telephone numbers, and home and local
28 addresses of each student.

29 (2) The courses of instruction offered by the institution and the
30 curriculum for each course.

31 (3) All information and records required by this chapter or
32 required by the board.

33 (4) Written records and transcripts of any formal education or
34 training, testing, or experience that is relevant to the student’s
35 qualifications for admission to the institution or the institution’s
36 award of credit or acceptance of transfer credits including all of
37 the following:

38 (A) Evidence of high school completion or equivalency or other
39 documentation establishing the student’s ability to do college level
40 work.

1 (B) Records documenting units of credit earned at other
2 institutions that have been accepted and applied by the institution
3 as transfer credits toward the student's completion of an
4 educational program.

5 (C) Grades or findings from any examination of academic ability
6 or educational achievement used for admission or college
7 placement purposes.

8 (D) All of the documents evidencing a student's prior
9 experiential learning upon which the institution and the faculty
10 base the award of any credit.

11 (E) Personal information regarding a student's age, gender, and
12 ethnicity, if the student has voluntarily supplied that information.

13 (F) Copies of all documents signed by the student, including
14 contracts, instruments of indebtedness, and documents relating to
15 financial aid.

16 (G) Records of the dates of enrollment and, if applicable,
17 withdrawal from the institution, leaves of absence, and graduation.

18 (H) A transcript showing all of the following:

19 (i) The classes and courses or other educational programs that
20 were completed, or were attempted but not completed, and the
21 dates of completion or withdrawal.

22 (ii) The final grades or evaluations given to the student.

23 (iii) Credit awarded for prior experiential learning, including
24 the course title for which credit was awarded and the amount of
25 credit.

26 (iv) Credit for courses earned at other institutions.

27 (v) Credit based on any examination of academic ability or
28 educational achievement used for admission or college placement
29 purposes.

30 (vi) Degrees and diplomas awarded the student.

31 (I) For independent study courses, course outlines or learning
32 contracts signed by the faculty and administrators who approved
33 the course.

34 (J) The dissertations, theses, and other student projects submitted
35 by graduate students.

36 (K) A copy of any document relating to student financial aid
37 that is required to be maintained by law or by a loan guarantee
38 agency.

1 (L) A document showing the total amount of money received
2 from or on behalf of the student and the date or dates on which the
3 money was received.

4 (M) A document specifying the amount of a refund, including
5 the amount refunded for tuition and the amount for other itemized
6 charges, the method of calculating the refund, the date the refund
7 was made, and the name and address of the person or entity to
8 which the refund was sent.

9 (N) Copies of any official advisory notices or warnings
10 regarding the student's progress.

11 (O) Complaints received from the student.

12 (b) Except as provided in subdivision (c), an institution shall
13 maintain all records required by this chapter and that relate to the
14 institution's compliance with this chapter for at least five years at
15 the institution's primary administrative location in California.
16 Unless the institution has applied for, and the board has approved
17 a change of the institution's primary administrative location, the
18 primary administrative location shall be deemed to be the location
19 identified in the institution's most recently filed application for
20 approval to operate.

21 (c) The institution shall maintain for a period of 50 years a
22 transcript as prescribed by subparagraph (H) of paragraph (4) of
23 subdivision (a).

24 (d) The institution shall maintain records relating to federal
25 financial aid programs as provided by federal law.

26 (e) A copy of each current record required by this chapter shall
27 be maintained. Current records include records required by
28 subdivision (a) for students who are attending the institution, who
29 graduated or withdrew from the institution within the preceding
30 ~~one-year~~ year, or for whom a refund is owed. Current records may
31 be maintained in either printed form or on reliable electronic
32 devices so long as they are available for inspection.

33 (f) A record that is no longer current may be stored on
34 microfilm, microfiche, computer disk, or any other method of
35 record storage only if all of the following apply:

36 (1) The record may be stored without loss of information or
37 legibility for the period within which the record is required to be
38 maintained by the act.

39 (2) The institution maintains functioning devices that can
40 immediately reproduce exact, legible printed copies of stored

1 records. The devices shall be maintained in reasonably close
2 proximity to the stored records at the institution's primary
3 administrative location in California.

4 (3) The institution has personnel scheduled to be present at all
5 times during normal business hours who know how to operate the
6 devices and can explain the operation of the devices to any person
7 authorized by this chapter to inspect and copy records.

8 (4) Any person authorized by this chapter to inspect and copy
9 records shall be given immediate access to the document
10 reproduction devices for the purpose of inspecting and copying
11 stored records and shall, upon request, reimburse the institution
12 for the reasonable cost of using the institution's equipment and
13 material to make copies at a rate not to exceed ten cents (\$0.10)
14 per page. The institution shall maintain a second set of all academic
15 and financial records required by this chapter at a different location
16 unless the original records, including records stored pursuant to
17 subdivision (e), are maintained in a manner secure from damage
18 or loss. Storage under this paragraph may include, but is not
19 necessarily limited to, fire resistant cabinets.

20 (g) All records that the institution is required to maintain by this
21 ~~chapter or this chapter~~ shall be made immediately available by the
22 institution for inspection and copying during normal business hours
23 by the board and any entity authorized to conduct investigations
24 under Article 10 (commencing with Section 95050).

25 (h) If an institution closes, the institution and its owners are
26 jointly and severally responsible to arrange at their expense for
27 the storage and safekeeping in California of all records that are
28 required to be maintained by this chapter for as long as those
29 records shall be maintained. The repository of the records shall
30 make these records immediately available for inspection and
31 copying, without charge except as allowed under paragraph (4) of
32 subdivision (f), during normal business hours by any entity
33 authorized by law to inspect and copy records.

34 94909. (a) Each institution shall establish specific written
35 standards for student admissions for each educational program.
36 These standards shall be related to the particular educational
37 program. The institution shall not admit any student who is
38 obviously unqualified, or who does not appear to have a reasonable
39 prospect of completing the program. Each institution shall specify
40 the maximum credit it will accept from another institution for each

1 educational program and the basis upon which the transfer or
2 experiential credit will be awarded.

3 (b) Units earned at institutions approved by this board, public
4 or private institutions of higher learning accredited by an
5 accrediting association recognized by the United States Department
6 of Education, or any institution of higher learning, including
7 foreign institutions, if the institution offering the undergraduate
8 program documents that the institution of higher learning at which
9 the units were earned offers degree programs equivalent to degree
10 programs approved by the board or accredited by an accrediting
11 association recognized by the United States Department of
12 Education.

13 (c) Students who possess earned degrees from ~~institution~~
14 *institutions* outside of the United States shall be graduates of
15 institutions recognized by their government and their transcripts
16 shall be translated into English and be evaluated by the American
17 Association of Collegiate Registrars and Admissions Officers
18 (AACRAO) or a member of the National Association of Credential
19 Evaluation Services (NACES) to determine the equivalency of the
20 degree to those degrees awarded in the United States from
21 institutions accredited by an agency recognized by the United
22 States Department of Education or currently approved by the Office
23 of Proprietary Education.

24 (d) Every student admitted to an undergraduate degree program
25 shall have a high school diploma or meet the institution's written
26 standards demonstrating the ability to succeed in college. A
27 maximum of 75 percent of the units or credit that may be applied
28 toward the award of a bachelor's degree may be derived from a
29 combination of any or all of the following:

30 (1) An institution may accept transfer credits only from the
31 types of institutions of higher learning described in subdivisions
32 (b) and (c).

33 (2) Challenge examinations and standardized tests such as the
34 College Level Placement Tests for specific academic disciplines.

35 (3) Prior experiential learning to the extent permitted under
36 subdivision (h).

37 (e) Possession of a bachelor's degree or its equivalent shall be
38 required for admission into postbaccalaureate degree programs.
39 The institution shall document that alternatives to a bachelor's
40 degree accepted by the institution are equivalent to a bachelor's

1 degree. If a graduate program leads to a profession or an occupation
2 requiring state licensure and the licensing agency does not require
3 that the members of the profession or occupation possess a
4 bachelor's degree or its equivalent, this subdivision does not apply.

5 (f) No more than six graduate semester units or the equivalent
6 in other units awarded by another institution may be credited
7 toward a master's degree.

8 (g) No more than 30 graduate semester units or the equivalent
9 in other units awarded by another institution may be credited
10 toward a doctoral degree. This subdivision does not apply to
11 graduate programs that lead to a profession or an occupation
12 requiring state licensure where the licensing agency has a regulation
13 permitting a different standard.

14 (h) An institution may grant credit to a student for prior
15 experiential learning only if the institution complies with this
16 section.

17 (1) Credit for prior experiential learning may be granted only
18 if all of the following apply:

19 (A) The prior learning is equivalent to a college or university
20 level of learning.

21 (B) The learning experience demonstrates a balance between
22 theory and practice.

23 (C) The credit awarded for the prior learning experience directly
24 relates to the student's degree program and is applied in satisfaction
25 of some of the degree requirements.

26 (D) Each college or university level learning experience for
27 which credit is sought shall be documented by the student in
28 writing.

29 (2) Each college or university level learning experience shall
30 be evaluated by faculty qualified in that specific subject area who
31 shall ascertain to what college or university level learning the
32 student's prior experience is equivalent and how many credits
33 toward a degree may be granted for that experience.

34 (3) The faculty evaluating the prior learning shall prepare a
35 written report indicating all of the following:

36 (A) The documents in the student's record on which the faculty
37 member relied in determining the nature of the student's prior
38 experience.

1 (B) The bases for determining that the prior experience is
2 equivalent to college or university level learning and demonstrates
3 a balance between theory and practice.

4 (C) The bases for determining to what college or university
5 level the experience is equivalent, and the proper number of credits
6 to be awarded toward the degree for that experience.

7 (4) The institution shall designate at least one administrator to
8 be responsible for the review of faculty determinations regarding
9 the award of credit for prior experiential learning.

10 (5) The administrator shall document the institution's periodic
11 review of faculty evaluations to ensure that the faculty written
12 evaluations and awards of credit comply with this section and the
13 institution's policies and are consistent.

14 (6) The amount of credit awarded for prior experiential learning
15 shall not be related to the amount charged the student for the
16 assessment process.

17 (7) Of the first 60 semester units awarded a student in an
18 undergraduate program, no more than 15 semester units may be
19 awarded for prior experiential learning.

20 (8) Of the second 60 semester units awarded a student in an
21 undergraduate program, no more than 15 semester units may be
22 awarded for prior experiential learning.

23 (9) Of the first 30 semester units awarded a student in a graduate
24 program, no more than six semester units may be awarded for prior
25 experiential learning.

26 (10) Of the second 30 semester units awarded a student in a
27 graduate program, no more than three semester units may be
28 awarded for prior experiential learning.

29 (11) No credit for experiential learning may be awarded after
30 a student has obtained 60 semester units in a graduate program.

31 94910. Each institution shall maintain and implement
32 procedures for the measurement of student academic progress
33 including all of the following:

34 (a) The use of evaluation and assessment measures consistent
35 with the level and abilities of the student and the mission, purposes,
36 and objectives of the institution.

37 (b) The maintenance of records of student progress that is readily
38 understandable and usable by other accredited or approved
39 institutions for the evaluation of students for admission.

1 (c) ~~(1)~~—The requirements that students demonstrate their
2 knowledge, skills, and academic achievement through student
3 work products, including tests, essays, written projects, oral
4 presentations, theses, and dissertations.

5 (d) The award of grades or credits based on evaluation by duly
6 qualified faculty.

7 94911. (a) Each institution shall retain, for a minimum of five
8 years, copies of all advertising, including flyers, brochures,
9 newspaper, and other print advertisements, scripts for, and audio
10 and video recordings of, broadcast advertisements, and scripts for
11 telephone solicitations. The institution shall make these records
12 immediately available for inspection and copying during normal
13 business hours to site visit teams, the board, and the agencies
14 specified in Article 10 (commencing with Section 95050).

15 (b) No institution shall use the word “university” in its name or
16 in connection with a description of itself or its educational
17 programs unless the institution is a university as defined in Section
18 94767, or the institution uses other words in conjunction with
19 “university” to prevent the use of “university” from being deceptive
20 or misleading in any manner.

21 (c) (1) The institution shall have an official name. The name
22 shall not be identical, or similar to such a degree as may be
23 misconstrued as identical, to the name of an existing public or
24 nonpublic institution approved or authorized to operate in
25 California or deemed by the board as an identity confusing or
26 misleading to the public at large.

27 (2) Currently approved institutions that do not meet the criteria
28 of this section, shall have until June 30, 2009, to comply with this
29 section.

30 (d) (1) No honorary degree may be given, awarded, or granted
31 by any institution that does not give, award, or grant an earned
32 degree.

33 (2) No fee or other charge may be assessed for giving, awarding,
34 or granting an honorary degree.

35 (3) An honorary degree shall be clearly designated as such on
36 the diploma or certificate.

37 94912. (a) An institution shall, as part of its curricula, require
38 that students use available library and other learning resources.
39 An institution shall provide or make provision for the library and
40 other learning resources needed to support each educational

1 program it offers, including resources such as reference works,
2 periodicals, monographs, and media and equipment specific to the
3 educational programs offered. The institution shall provide onsite
4 library and other learning resources, if any, that enable students
5 to pursue inquiries, searches for information and documentation,
6 and assignments connected with their study programs.

7 (b) An institution that depends for library and other learning
8 resources primarily on other institutions' collections and resources
9 not in its possession shall do all of the following:

10 (1) Provide students and faculty with access to the regular
11 services of a professional librarian or information specialist
12 experienced in the electronic retrieval of information, who shall
13 provide support for faculty in curriculum matters and actively
14 serve as a resource guide for both graduate and undergraduate
15 students.

16 (2) Ensure that students have access to the library collections
17 and resources of another institution, organization, or library.

18 (3) Document compliance with paragraphs (1) and (2).

19 94913. (a) Each institution shall designate a sufficiently trained
20 individual to provide to students academic advisement, financial
21 aid advisement, and placement services. Advising and guidance
22 services shall be readily available to students to assist them in
23 program planning, course selection, and other academic activities.
24 Financial aid administration and distribution shall be performed
25 according to institutional, state, and federal policies. Placement
26 services and employment opportunities shall be accurately
27 described.

28 (b) Each institution shall assist its students in similar educational
29 programs ~~may~~ to convene as a study group if they so choose.

31 Article 8. Procedures for Approval to Operate

32
33 94950. (a) Schools offering or proposing to offer credit-bearing
34 courses or degree programs shall file applications for approval to
35 operate.

36 (b) Schools may demonstrate financial viability through an
37 audit, by a certified public accountant, that provides an unqualified
38 opinion on the financial standing of the school.

39 (c) A school training students for employment in any specific
40 area shall demonstrate that there is a workforce market need for

1 this skill or that the school has explained to students that there may
2 be no employment opportunities in this area.

3 (d) There shall be no temporary, provisional, or conditional
4 licenses under this chapter. A school is either approved or not
5 approved.

6 (e) The board shall review and approve modifications that are
7 of a substantive nature, as determined by the board, before the
8 changes can be implemented or take effect. The board shall not
9 consider substantive changes if the school is operating under an
10 initial approval, an approval with conditions, or on probation.

11 (f) It is the intent of the Legislature to enact subsequent changes
12 to this chapter to establish parameters for significant change in a
13 manner that does not micromanage the industry or create consumer
14 risk. "Significant change," within the meaning of this subdivision,
15 may include any of the following:

16 (1) Change of ownership.

17 (2) Approval for an additional degree or certificate program.

18 (3) Approval for change of school name.

19 (4) Approval for a change of location or an additional location.

20 (5) Approval for adding a methodology of instruction or change
21 of mission.

22 (g) Nonsignificant program modifications are those that result
23 in less than a 25 percent change in the program's credit hours,
24 changes to the name of an approved program, or a change in the
25 agent for service of process. Although the board shall not require
26 prior approval of nonsignificant program modifications, schools
27 shall notify the board, in writing, of these types of modifications.

28 94952. An institution shall not advertise itself as an approved
29 institution unless each educational program offered by the
30 institution has been approved in accordance with the requirements
31 of this section. The board may review all operations of the
32 institution pertaining to California educational programs, both
33 within and outside of California. Each institution or instructional
34 degree program offering education for entry into a health care
35 profession in which the provider has primary care responsibilities
36 shall offer that education within a professional program that shall
37 be subject to approval by the board pursuant to this section.

38 ~~94953. (a) All complete applications for licensure shall~~
39 ~~approved or denied within _____ days from the date of receipt of~~
40 ~~the complete application. This _____-day period shall not begin~~

1 until complete information is received. Applicants shall be notified
2 in writing and in a timely manner of any deficiencies in the
3 application. Applicants shall be told in clear and concise terms of
4 any expected delays in reviewing the application and of the reasons
5 for the delay.

6 ~~(b)~~

7 94953. (a) The board shall not provide conditional or
8 temporary approval under this chapter.

9 ~~(e)~~

10 (b) The executive director shall make a periodic report to the
11 board in full board meetings on pending applications and approved
12 applications.

13 94954. (a) Except as otherwise provided pursuant to Article
14 3 (commencing with Section 94770), each institution desiring to
15 operate in this state shall make application for approval to operate
16 to the Board for Private Postsecondary Education, upon forms to
17 be provided by the board. The board shall make forms available
18 electronically and allow institutions to file electronically where
19 appropriate. The board shall strive to ensure that all forms are
20 concise, clear, and complete. The board may approve an
21 unaccredited institution or an institution that is accredited but
22 whose accrediting entity has not entered into a participatory
23 agreement with the board, provided the following standards, in
24 addition to the provisions established in Article 6 (commencing
25 with Section 94850) and Article 7 (commencing with Section
26 94900), have been met.

27 (b) Each application shall include, as at a minimum, at least all
28 of the following:

29 (1) A fee based on the number of branches, satellites, and
30 programs included within a single application in order to cover
31 the costs involved for those multisite and multiprogram reviews.
32 If the application for approval includes branches and satellites, the
33 board may inspect each branch and may inspect any satellite
34 campus.

35 (2) The application shall be signed and certified under oath by
36 the owners of the school or, if the school is incorporated, by the
37 principal owners of the school (those who own at least 10 percent
38 of the stock), or by the corporate officers or their designee. The
39 application shall contain a statement that the person or persons
40 who sign the application certify to the best of their knowledge that

1 the institution and each signatory complies with all applicable laws
2 regarding the operation of the institution.

3 (3) Copies of the institution's articles of incorporation, bylaws,
4 fictitious name statement, or other documents substantiating the
5 current ownership.

6 (4) If the institution has a governing board, the application shall
7 also include the name, work address, and telephone number of
8 each member of the governing board.

9 (5) The current name and California address of a designated
10 agent upon whom any process, notice, or demand may be served.
11 The agent address shall not be the same as the institution address.

12 (6) The name, work address, and telephone number of the
13 custodian of records, and the address and telephone number of the
14 office where the records will be maintained.

15 (7) The institution shall furnish timely notification with an
16 explanation of any legal action pending against the institution or
17 ownership or any of the institution's owners, officers, corporate
18 directors, administrators, or faculty by any federal, state, or local
19 law enforcement agency involving alleged acts of fraud, dishonesty,
20 financial mismanagement, unpaid liabilities to any governmental
21 agency, or claims for pecuniary loss suffered by any student.

22 (8) The institution's most current financial report as described
23 in Section 94856, and proof of insurance or certificate of liability
24 coverage.

25 (9) The information specified in Article 6 (commencing with
26 Section 94850) regarding annual reports by institutions, if
27 applicable.

28 (10) A catalog published, or proposed to be published, by the
29 institution containing the information specified in Section 94861.

30 (11) Copies of all student enrollment agreement or contract
31 forms, instruments evidencing indebtedness, the school
32 performance fact sheet, and transferability of credit units disclosure
33 form.

34 (12) Copies of media advertising and promotional literature.

35 (13) An application submitted by a nationally accredited,
36 regionally accredited, professionally accredited, or
37 program-specifically accredited institution shall include a copy of
38 the certificate of accreditation issued by the accrediting agency
39 along with information specified in subdivision (d) regarding

1 notification requirements pertaining to accrediting agency and
2 audit reports.

3 (14) An application submitted by an institution regulated by
4 any other state licensing agency; shall include a copy evidencing
5 the approval of that agency.

6 ~~(b) (1) The initial application shall include, as a minimum, at~~

7 ~~(c) (1) The initial application shall include, at a minimum, at~~
8 least all of the following:

9 (A) All materials listed in paragraphs (1) to (14), inclusive, of
10 subdivision (a).

11 (B) A copy of the document awarded to graduating students
12 upon their successful completion of the educational program.

13 (C) A description of how student records required by this chapter
14 are or will be organized and maintained, the types of documents
15 contained in individual student files, how the student records are
16 stored, and whether academic and financial records are maintained
17 in separate files.

18 (D) For facilities that are leased or rented, the application shall
19 contain the name and address of the lessor or landlord, together
20 with a copy of any use, lease, or rental agreements for the facilities.
21 For each program offered, the application shall contain a
22 description of the facilities and the equipment that is available for
23 use by students at the main, branch, and satellite locations of the
24 institution. Branches or satellites included in an initial application
25 shall be considered by the board as subdivisions of the single
26 institution for purposes of regulation, approval, and compliance
27 under this chapter.

28 (E) An operational plan establishing that the institution will
29 satisfy the minimum standards set forth in Article 7 (commencing
30 with Section 94900). The operational plan also shall include a
31 detailed description of the institution's program for implementing
32 the operational plan, including proposed procedures, financial
33 resources, and the qualifications of owners, directors, officers, and
34 administrators employed at the time of the filing of the application.
35 The board may request additional information to enable the board
36 to determine whether the operational plan and its proposed
37 implementation will satisfy these minimum standards.

38 (2) The initial application may be reviewed and acted upon as
39 provided in Article 7 (commencing with Section 94900).

1 (3) Once a grant of initial approval has been issued, a qualified
2 visiting committee impaneled by the board for that purpose, as
3 provided by Section 94956, shall perform a comprehensive onsite
4 review. The scope and composition of the visiting committee shall
5 be at the discretion of the board.

6 (4) The board shall inspect the institution within 720 days after
7 operation has begun under the initial approval to operate. Within
8 90 days of the receipt of the site visit report and recommendations,
9 the board shall take action pursuant to Section 94956.

10 (5) All institutions operating under an initial approval shall
11 include the following disclosure on each enrollment agreement
12 and catalog:

13 “This institution has received an initial approval to operate from
14 the ~~board of~~ *Board for* Private Postsecondary Education. An initial
15 approval is merely an interim designation the board can authorize
16 pending a qualitative review and assessment of the institution. At
17 the time it is issued, the board has not yet conducted a site visit.
18 It is issued if the board determines the institution’s operational
19 plan satisfies minimum standards. The initial approval will remain
20 in effect for not more than 720 days in order to enable the board
21 to conduct the site visit and inspection of the institution. After that
22 visit, the board will then determine whether the institution should
23 be approved. If a review and decision cannot be completed by the
24 board before the expiration of the institution’s initial approval,
25 that expiration date shall be extended until the date that the board
26 notifies the institution of its decision.”

27 (6) All institutions operating under an initial approval shall have
28 the following notice included in any advertisements it causes to
29 be published in the print or electronic media:

30 “This institution has received an initial approval to operate from
31 the Board for Private Postsecondary Education in order to enable
32 the board to conduct a quality inspection of the institution.”

33 (e)

34 (d) At least 90 days before the expiration of an approval to
35 operate, the institution shall complete and file with the board an
36 application form for renewal of its approval to operate.

37 (1) The renewal application shall include, ~~as~~ *at* a minimum, at
38 least both of the following:

39 (A) All materials listed in paragraphs (1) to (14), inclusive, of
40 subdivision (a).

1 (B) A description of any changes made by the institution since
2 the time its last application was reviewed by the board.

3 (2) Before an application for renewal to operate is approved,
4 the board reserves the right to require onsite review. A qualified
5 visiting committee impaneled by the board for that purpose, as
6 provided by Section 94956, shall perform a comprehensive onsite
7 review. The scope and composition of the visiting committee shall
8 be at the discretion of the board. The board shall inspect the
9 institution, pursuant to subdivision (a), within 720 days after
10 operation has begun under the initial approval to operate.

11 (3) The renewal application may be reviewed and acted upon
12 as provided in Article 7 (commencing with Section 94900).

13 (4) If a review and decision on a renewal application cannot be
14 completed by the board before the expiration of the institution's
15 current approval, that expiration date shall be extended until the
16 date that the board notifies the institution of its decision.

17 (5) Changes that are considered amendments to the current
18 approval shall be submitted separately on forms prescribed by the
19 board with the applicable fees.

20 ~~(d)~~

21 (e) (1) The board may accept accreditation by national or
22 regional accrediting entities recognized by the United States
23 Department of Education as evidence of partial or complete
24 compliance with standards established by the board pursuant to
25 this chapter.

26 (2) (A) Each accreditation entity seeking consideration of its
27 members for approval by means of accreditation shall enter into
28 written agreement with the board, and submit its accrediting
29 standards for determination by the board that the entity's standards
30 are substantially equivalent to those of the board.

31 (B) The written agreement shall include a provision that each
32 accreditation entity agrees to provide the board, upon request,
33 copies of all accreditation reports, including preliminary reports
34 and visiting committee reports, within 15 days of the member
35 institution's receipt of the report, and a copy of the member
36 institution's submission of its response.

37 (C) Work papers for all accreditation entity reports, including
38 preliminary reports and visiting committee reports, shall be retained
39 for five years from the date of the reports, and shall be made

1 available for inspection and copying by the board or the Attorney
2 General.

3 (3) Acceptance of national or regional accrediting agencies
4 recognized by the United States Department of Education as
5 evidence of partial or complete compliance shall be on a
6 school-by-school basis.

7 (4) Acceptance may include authorized board staff participating
8 as observers on accreditation site visits.

9 (5) This section does not preclude or relieve the board of its
10 responsibilities under this chapter, and the board shall retain full
11 authority for approving all private postsecondary degree granting
12 institutions operating in California.

13 (6) Except as otherwise provided pursuant to Article 3
14 (commencing with Section 94770), each institution desiring to
15 operate in this state by means of accreditation, shall make
16 application to the board, upon forms to be provided by the board.
17 The application shall include, ~~as~~ at a minimum, all of the materials
18 listed in paragraphs (1) to (14), inclusive, of subdivision (a).

19 ~~(d)~~

20 (f) The board shall consider an application to be complete if it
21 appears that the institution has submitted all of the information,
22 documents, and fees required by this chapter. The board shall take
23 action pursuant to Section 94955.

24 ~~(e)~~

25 (g) Within 45 days after receipt of an application for approval
26 to operate, the board shall notify the institution in writing that the
27 application is complete and has been accepted for filing, or that
28 the application is not complete. If the application is not complete,
29 the board shall specify in the notice what additional information
30 or documents are needed from the institution in order for the
31 application to be deemed complete.

32 ~~(f)~~

33 (h) (1) The board shall consider an application to be complete
34 if it appears that the institution has submitted all of the information,
35 documents, and fees required by the act. This includes any
36 additional documents the board may request to determine if the
37 institution's operational plan and its proposed implementation
38 meet the minimum standards of this chapter.

39 (2) An application that has not been completed by the applicant
40 in accordance with this chapter within one year after the application

1 was initially filed shall be deemed abandoned. If an application
2 has been abandoned, the applicant may seek approval to operate
3 only by submitting a new application and fee.

4 ~~(g)~~

5 (i) Following review of the application and any other further
6 information submitted by the applicant, including the required
7 information that conforms with Article 7 (commencing with
8 Section 94900) and Article 8 (commencing with Section 94950),
9 and any investigation of the applicant as the board deems necessary
10 or appropriate, the board either shall grant approval to operate or
11 deny the application.

12 94955. The board, after concluding its review, may act on an
13 application for initial approval or renewal of an existing approval
14 to operate, as follows:

15 (a) (1) Tier 1 approval: after finding that the information
16 provided in the application materials and processes prescribed by
17 Section ~~94925~~ 94954 meets the minimum standards, the board
18 may grant approval to operate.

19 (2) Tier 1 approval shall signify that the institution is in
20 compliance with the standards for institutional approval. *An*
21 *institution that, as of June 30, 2007, was approved by the former*
22 *bureau shall be deemed, as of January 1, 2008, to have Tier 1*
23 *status unless the board finds that Tier 1 status would be*
24 *inappropriate for that institution.*

25 (3) Approval for a period of up to five years.

26 (b) (1) Tier 2 approval: if the institution is not a regionally
27 accredited nonprofit school or has a history of compliance issues
28 under subdivision (a) approval, the board may grant approval to
29 operate under this subdivision. Issues identified for correction may
30 be, in the judgment of the board, of a nature or scope that affects
31 the institution's capacity to maintain adherence to the minimum
32 standards for the period of this approval, or may relate either to
33 minor compliance matters or to the strengthening of practices that
34 meet the standards of compliance.

35 (2) (A) Tier 2 approval shall signify that the institution has
36 demonstrated the intent and capacity to rectify identified
37 deficiencies within no more than three years.

38 (B) During the period of the approval, the institution may be
39 subject to special monitoring. The conditions for the approval may
40 include the required submission of frequent and focused reports,

1 as prescribed by the board, and special visits by authorized
2 representatives of the board to determine progress toward total
3 compliance.

4 (C) Approval for a period of up to five years.

5 (c) (1) Tier 3 approval: if, at any time, the board determines
6 that an institution has deviated substantially from the standards
7 for approval, the board, after identifying for the institution the
8 areas in which it has deviated from the standards, and after giving
9 the institution due notice and an opportunity to be heard, may grant
10 approval for no more than one year.

11 (2) (A) Tier 3 approval shall signify that the institution is not
12 in compliance with the standards of approval and is subject to a
13 period of evaluation and possible termination of approval.

14 (B) During the period of Tier 3 approval, the institution shall
15 be subject to monitoring that may include the submission of
16 frequent and focused reports, as prescribed by the board, as well
17 as special onsite inspections to determine progress towards
18 compliance. The onsite inspections may include an inspection of
19 the institution's facilities and records, interviews of administrators,
20 instructors, and students, and observation of class instruction. The
21 board shall order the institution to reimburse all reasonable costs
22 and expenses incurred by the board in connection with this
23 subdivision. The board may make the payment of the order for
24 reimbursement a condition of probation.

25 (C) The board shall notify the institution of the basis for
26 approval under Tier 3.

27 (i) While the institution is operating under Tier 3 approval, the
28 board shall not review or consider any request by the institution
29 for significant modification, as described by Section 94957.

30 (ii) All institutions operating under Tier 3 approval shall provide
31 the following disclosure to each current student and prospective
32 student in writing and be evidenced in the student's file:

33 "This institution has been found by the ~~state~~ Board for Private
34 Postsecondary Education to be operating in violation of the statutes,
35 standards and regulations that govern private postsecondary
36 educational institutions. This institution is allowed to operate while
37 the board monitors compliance with applicable regulations; *and*
38 statutes for a period of one year. After this period, this institution
39 will be reevaluated by the ~~state~~ Board for Private Postsecondary

1 Education to determine whether this institution should continue
2 to be allowed to operate.”

3 (D) If, at the end of the period of Tier 3 approval, the board is
4 not satisfied with the steps taken by the institution to eliminate the
5 violations of this article, upon which the Tier 3 approval was based,
6 the board may revoke the institution’s approval to operate.

7 (E) If the board determines after notice and, if requested by the
8 institution, a hearing, that an institution has violated this article,
9 but that the institution’s approval to operate, or approval to operate
10 a branch or satellite campus, or any approved program thereof,
11 should not be revoked, or that the institution should not be ordered
12 to cease offering a class or program of instruction, the board may
13 do any or all of the following:

14 (i) Order the institution to post a bond.

15 (ii) (I) Any bond ordered by the board shall be issued by an
16 admitted surety insurer in an amount established at the discretion
17 of the board that is sufficient to protect students from the potential
18 consequences of the violation.

19 (II) The bond shall be in favor of the State of California for the
20 indemnification of any person for any loss, including the loss of
21 prepaid tuition, suffered as a result of the occurrence of any
22 violation of this chapter during the period of coverage.

23 (III) Liability on the bond may be enforced after a hearing before
24 the board, after 30 days’ advance written notice to the principal
25 and surety. This subclause supplements, but does not supplant,
26 any other rights or remedies to enforce liability on the bond.

27 (IV) The board may order the institution to file reports at any
28 interval the board deems necessary to enable the board to monitor
29 the adequacy of the bond coverage and to determine whether
30 further action is appropriate.

31 (iii) Order the institution not to enter into new agreements for
32 programs of instruction.

33 (iv) The board may assess a penalty of up to ten thousand dollars
34 (\$10,000) as part of a probation order for violations of this article.
35 In determining the amount of that penalty, the board shall consider
36 the number and gravity of the violations, the degree of the
37 institution’s good faith or culpability, the history of the institution’s
38 previous violations, and the institution’s ability to pay. If the
39 institution fails to pay a penalty within the time prescribed by the

1 board, the institution's approval to operate shall be automatically
2 revoked.

3 (v) The board shall determine an institution's compliance,
4 including the compliance of its branch and satellite campuses, and
5 shall not be bound by the findings or conclusions of any accrediting
6 agency.

7 (d) *Notwithstanding any other provision of this section:*

8 (1) *Any institution subject to this chapter, other than an*
9 *institution that, on June 30, 2007, was on probation pursuant to*
10 *a determination of the former bureau, that entered into a voluntary*
11 *contract with the Department of Consumer Affairs pursuant to*
12 *paragraph (3) of subdivision (b) of Section 1 of Chapter ____ of*
13 *the Statutes of 2007 (Assembly Bill 1525 of the 2007–08 Regular*
14 *Session), shall be deemed approved with Tier 1 status on January*
15 *1, 2008. This Tier 1 approval shall be valid until two years have*
16 *elapsed from the date of the expiration of the approval of that*
17 *institution under the former Chapter 7 (commencing with Section*
18 *94700) as that chapter existed on June 30, 2007.*

19 (2) *Any institution subject to this chapter that, on June 30, 2007,*
20 *was on probation pursuant to a determination of the former bureau,*
21 *and that entered into a voluntary contract with the Department of*
22 *Consumer Affairs pursuant to paragraph (3) of subdivision (b) of*
23 *Section 1 of Chapter ____ of the Statutes of 2007 (Assembly Bill*
24 *1525 of the 2007–08 Regular Session), shall be deemed approved*
25 *with Tier 2 status on January 1, 2008.*

26 (3) *Any institution subject to this chapter that was also subject*
27 *to former Chapter 7 (commencing with Section 94700), and that*
28 *did not enter into a voluntary contract with the Department of*
29 *Consumer Affairs pursuant to paragraph (3) of subdivision (b) of*
30 *Section 1 of Chapter ____ of the Statutes of 2007 (Assembly Bill*
31 *1525 of the 2007–08 Regular Session), shall be deemed to have*
32 *Tier 2 status on January 1, 2008.*

33 (4) *Any institution subject to this chapter that either: (A) had*
34 *an application for an approval to operate pending at the former*
35 *bureau on June 30, 2007, or (B) was on probation pursuant to a*
36 *determination of the former bureau on June 30, 2007, and did not*
37 *enter into a voluntary contract with the Department of Consumer*
38 *Affairs pursuant to paragraph (3) of subdivision (b) of Section 1*
39 *of Chapter ____ of the Statutes of 2007 (Assembly Bill 1525 of the*

1 2007–08 Regular Session), shall be deemed to have Tier 3 status
2 on January 1, 2008.

3 (e) Notwithstanding any other provision of law, in implementing
4 this section, the board has the discretion to set or adjust the tier
5 level of any institution to which this section applies.

6 94955.3. (a) Both of the following are subject to this chapter:

7 (1) Two-year and certificate institutions accredited by WASC.

8 (2) Any non-WASC regionally accredited institution, as defined
9 in Section 94746.5.

10 (b) An institution referenced in subdivision (a) shall be deemed
11 to have Tier 1 status. The board is authorized to place an institution
12 referenced in subdivision (a) in Tier 2 or Tier 3 if the board finds
13 that the institution's record of compliance makes placement in
14 Tier 2 or Tier 3 appropriate.

15 (c) An institution referenced in subdivision (a) shall only be
16 required to register with the board and certify that it will comply
17 with California law. As long as an institution referenced in
18 subdivision (a) continues to be accredited by WASC or by a
19 non-WASC regional accrediting agency, as appropriate, and have
20 had no negative actions with respect to their accreditation status
21 within the previous five years, that institution shall be deemed to
22 be approved by the board.

23 (d) If an institution referenced in subdivision (a) is the subject
24 of an action with respect to its accreditation that is deemed by the
25 board to be negative, that institution shall be subject to the
26 approval process as set forth in this article.

27 (e) An institution referenced in subdivision (a) is subject to
28 Article 6 (commencing with Section 94850), Article 12
29 (commencing with Section 95070), and Article 13 (commencing
30 with Section 94900).

31 94955.5. If and when the board finds that the default rate in
32 student loans issued to students attending an institution that is
33 subject to this chapter exceeds ____ percent, the board shall review
34 the programs of the institution and conduct an onsite review. After
35 any review that is required by this section, the board may order a
36 change in the tier level of that institution or some other
37 enforcement action that the board deems appropriate.

38 94955.7. (a) If the board places an institution on probation,
39 the institution shall disclose to the public in a clear and

1 *conspicuous manner that the State of California has placed the*
2 *school on probation.*

3 *(b) The terms of the probation shall be clear, including, but not*
4 *necessarily limited to, all of the following:*

5 *(1) The specific duration of the probation.*

6 *(2) The reason or reasons that the institution was placed on*
7 *probation.*

8 *(3) The corrective action or actions that must be made to*
9 *address the reason or reasons that the institution was placed on*
10 *probation.*

11 *(4) Evidence that the school must provide to demonstrate that*
12 *the corrective action or actions have been made.*

13 *(c) Notwithstanding the duration of the probation set forth under*
14 *paragraph (1) of subdivision (b), an institution shall be released*
15 *from probation upon the determination of the board that the terms*
16 *of the probation have been satisfied.*

17 94956. (a) (1) A visiting committee shall make a
18 comprehensive, qualitative onsite review of each institution that
19 applies for ~~an initial to operate~~ 90 initial approval to operate. A
20 visiting committee shall also make a comprehensive, qualitative
21 onsite review of each Tier 2 or Tier 3 institution that applies for
22 renewal of an existing approval to operate 120 days before the
23 expiration of that approval. ~~In addition, the~~ The board may impanel
24 a special committee to make an onsite review of a Tier 1 institution
25 that applies for renewal of an existing approval to operate if the
26 board finds that there is evidence of potential compliance problems
27 relating to that institution.

28 (2) The director or a designee may impanel a special committee
29 consisting of one or more technically qualified people to assist a
30 visiting committee in the evaluation of an institution's proposal
31 for ~~an a degree program considered~~ a degree program considered
32 to be a new and emerging field of study. ~~The board reserves the~~
33 ~~right to~~

34 (3) The board may use a qualified visiting committee in
35 subsequent reviews, ~~such as an application for renewal or~~
36 ~~investigations~~ in any review of an institution that occurs after the
37 granting of an approval to operate including, but not necessarily
38 limited to, a review related to an application for a renewal of an
39 existing approval to operate or a review related to an investigation.

1 (4) *Prior to conducting any site visit, other than an unannounced*
2 *site visit, the board shall notify the institution to be visited of the*
3 *estimated cost of the site visit. The institution shall reimburse the*
4 *board for the cost of the site visit within 30 days of that visit.*

5 (5) *The board has discretion to develop procedures for, and to*
6 *conduct, unannounced site visits, during normal business hours,*
7 *to institutions subject to this chapter that it deems necessary for*
8 *the purposes of the enforcement of this chapter.*

9 (b) The board may conduct site visits outside of California,
10 including the institution's foreign operations, as the board
11 determines these visits to be necessary. The institution shall be
12 responsible for the expenses of the visiting team members including
13 the board's staff liaison.

14 (c) The board may waive or modify the onsite inspection for
15 institutions offering educational services through distance learning.

16 (d) When evaluating an institution whose purpose is to advance
17 postsecondary education through innovative methods or an
18 emerging field of study, the visiting committee shall be composed
19 of educators who are familiar with, and receptive to, evidence
20 bearing on the educational quality and accomplishments of those
21 methods.

22 (e) (1) The executive director or a designee shall appoint the
23 visiting committee.

24 (2) An institution seeking the impaneling of a special visiting
25 committee to review the institution's offer of instruction in an
26 emerging field of study, or the offer of instruction through
27 innovative methods of instruction, shall make special application
28 to the director as provided in Section 94957.

29 (3) The visiting committee shall include educators trained in
30 the academic disciplines of educational programs offered by the
31 institution, and any other person found to be technically qualified
32 within the meaning of subdivision (e) of Section 94789, from
33 degree-granting institutions legally operating in this state whom
34 the director or a designee deems necessary to provide a
35 comprehensive, qualitative review. The director or a designee shall
36 appoint a chair of the visiting committee. The director or a designee
37 shall appoint a member of the board's staff to serve as the visiting
38 committee's liaison. The staff member shall prepare, with the
39 cooperation of the visiting committee's members, the visiting
40 committee's evaluation report and recommendations.

1 (4) The institution being evaluated shall be notified of the
2 identity of the members of the visiting committee at least 45 days
3 before the visit. The notice shall also include a description of the
4 institution's right to object to a committee member and the
5 procedure for objection as provided in this section.

6 (5) (A) If the institution objects to the inclusion of any person
7 in the visiting committee, the institution may file a written
8 objection with the director at least 10 days before the visiting
9 committee is originally scheduled to conduct its onsite inspection.

10 (B) An institution has a right to seek the disqualification of a
11 visiting committee member before the occurrence of the onsite
12 inspection on any of the following grounds:

13 (i) The committee member has inadequate academic or
14 experiential qualification.

15 (ii) The committee member or his or her family has a financial
16 interest in, or is employed by, a competing institution that offers
17 or proposes to offer any of the educational programs offered or
18 proposed to be offered by the applicant institution.

19 (iii) The committee member is biased. In order to establish that
20 a committee member is biased, the institution shall document by
21 written evidence that the member is predisposed to give an
22 unfavorable recommendation.

23 (C) An institution seeking to disqualify a visiting committee
24 member shall submit copies of all evidence and argument on which
25 it relies when the written objection is filed.

26 (D) All evidence and argument shall be considered by the
27 executive director. The executive director shall make the final
28 decision on the composition of the visiting committee before the
29 onsite inspection occurs. There shall be no oral hearing or review
30 of this decision. However, if the executive director rejects the
31 objection, the institution may raise the grounds for disqualification
32 in any administrative proceeding that may be held after the
33 inspection occurs.

34 (E) If an institution has grounds under subparagraph (C) to
35 object to the impaneling of a committee member before the
36 occurrence of the onsite inspection and fails to timely object, the
37 institution permanently waives the right to challenge the visiting
38 committee's composition or report on those grounds.

39 (f) (1) The visiting committee shall conduct a comprehensive,
40 qualitative onsite inspection and review of all aspects of the

1 institution's operations to evaluate the institution's efforts to
2 implement its mission, purpose, and objectives and to determine
3 whether the institution complies with the applicable requirements
4 of this chapter.

5 (2) The visiting committee's inspection and review may include
6 the examination of documents and records, the inspection of
7 facilities and equipment, the auditing of classes, and the interview
8 of current or former owners, directors, officers, administrators,
9 faculty, and students.

10 (3) The visiting committee shall cooperate with the board staff
11 liaison in the preparation of a written evaluation report.

12 (4) (A) A report shall be prepared and submitted to the
13 institution before the board receiving the report and the
14 recommendations. The institution shall have an opportunity to
15 review the visiting committee report and respond to board staff
16 within 15 days of the institution's receipt of that report as to errors
17 of fact or erroneous findings based on errors of fact. The director
18 or a designee will review the report and will submit to the board
19 the visiting committee's report and board staff's recommendations
20 along with the institution's comments. Except as provided in
21 subdivision (g), the board shall accept the visiting committee's
22 report as its basis for taking appropriate action.

23 (B) The visiting committee report shall contain all of the
24 following:

25 (i) The committee's findings regarding the institution's
26 compliance with this chapter and facts supporting those findings.

27 (ii) The committee's assessment of the quality of each
28 educational program offered by the institution and facts supporting
29 the assessment.

30 (iii) The committee's assessment of the quality of the institution
31 as a whole and facts supporting the assessment.

32 (iv) The committee's recommendations for quality improvement
33 based on its findings and assessment in the event the board
34 determines to grant an approval to operate.

35 (g) The board shall not be bound by any of the following:

36 (1) Any facts adduced by the visiting committee that is based
37 on inaccurate or unreliable evidence or that is inconsistent with
38 other facts found by the board.

39 (2) The findings or assessment made by the visiting committee,
40 if the findings or assessments are not supported by the facts or the

1 facts support different findings or assessments that may be
2 reasonably made by the board.

3 (3) The visiting committee's recommendations. Any actions
4 taken that do not follow these recommendations shall have some
5 reasonable basis in fact or law.

6 (h) (1) The institution shall make available for inspection by
7 the visiting committee all records that the visiting committee
8 reasonably deems necessary or appropriate to inspect to determine
9 whether the institution meets the standards of this chapter. Only
10 those records necessary to establish compliance with the provisions
11 of this chapter are required to be produced under this section.

12 (2) The institution shall facilitate the visiting committee's onsite
13 inspection including the inspection of records, inspection of
14 facilities and equipment, observation of class sessions, or
15 interviews with officers, administrators, faculty, or students.

16 (i) (1) The institution shall reimburse the board for expenses
17 incurred by the visiting committee, except for board staff,
18 conducting the onsite visit at rates not to exceed those used by the
19 state for reimbursing state employees on work travel assignment.

20 (2) No later than 30 days before the visit, the executive director
21 shall submit to the institution an estimated cost of the visit. The
22 institution shall pay all of the estimated cost 15 days before the
23 visit. If the deposit is not received by the deadline, the executive
24 director may cancel the visit and require that the institution submit
25 a new application and application fee.

26 (3) Within 15 days following the conclusion of the visit to the
27 institution and all sites scheduled that will be visited, the executive
28 director shall provide the institution with a statement of the actual
29 expenses of the visit.

30 (4) If the deposit was greater than the expenses incurred for the
31 visit, the board shall remit the excess within 30 days following the
32 date of the visit.

33 (5) If the costs exceeded the amount of the deposit, the
34 institution shall remit the balance within 30 days after receiving
35 the statement of expenses. The time period within which the board
36 is required to act on the application shall be tolled until the board
37 receives the balance. If the balance is not received by the deadline,
38 the executive director may require that the institution submit a new
39 application and application fee.

1 94957. (a) Modifications that are of a substantive type shall
2 require formal review and approval by the board before the changes
3 can be implemented or take effect. The board will not consider
4 substantive changes if the institution is operating under an initial
5 approval or an approval with conditions, or is on probation.

6 (b) Any application submitted for significant changes to a
7 current approval to operate shall be signed under penalty of perjury
8 that any changes proposed would meet the standards provided in
9 Article 7 (commencing with Section 94900).

10 (c) (1) If a shift in control or change of ownership of an
11 institution occurs, an application for a new approval to operate for
12 the institution under the changed ownership or control shall be
13 filed at least 30 days before the shift in control or change in
14 ownership. Whenever an institution is operated at different
15 locations, an application for approval shall be filed for each
16 location.

17 (2) The application for approval to operate submitted in
18 conjunction with a change of ownership may include pertinent
19 portions of the institution's previous application prepared in
20 connection with programs or courses of instruction that are changed
21 or affected by the change in ownership.

22 (3) No application for ownership or transfer of ownership shall
23 be approved for any applicant that has been found previously in
24 any judicial or administrative proceeding to have violated this
25 chapter, or if there exists any of the grounds for denial set forth in
26 Section 480 of the Business and Professions Code.

27 (4) No change in ownership of the institution shall be made
28 until the application is approved. If an application for a change in
29 ownership or control is not timely filed as required by this section,
30 the institution's approval to operate shall terminate.

31 (5) For the purposes of this section, a change in ownership
32 occurs under the following circumstances:

33 (A) When there is a change of control of the institution, or where
34 a person that previously did not own at least 25 percent of the stock
35 or controlling interest of an institution or its parent corporation,
36 acquires ownership of at least 25 percent of the stock of the
37 institution or its parent corporation, or when a for-profit business
38 converts to nonprofit corporation status or forms a nonprofit
39 corporation as a subsidiary to provide the educational services for
40 which the for-profit business is approved to operate.

1 (B) When there is a change of 50 percent or more of the voting
2 members of the controlling board of a nonprofit corporation within
3 a 12-month period or when there is a change in the number of
4 voting members of the aforementioned board within a 12-month
5 period that will allow a group of members to exercise control who
6 could not exercise control before the change.

7 (6) The institution shall be required to notify the board, and
8 provide substantiating documentation, that the agreement for the
9 change of ownership has been executed.

10 (7) If an institution is applying for approval to change
11 ownership, the application shall be made in writing upon forms to
12 be provided by the board, and shall contain, at a minimum, all of
13 the following information:

14 (A) Evidence confirming that the institution has sufficient
15 financial resources to ensure satisfactory conduct of its degree
16 programs and achievement of its stated educational goals.

17 (B) Evidence that the individuals having ownership or control
18 of the institution have experience operating an educational
19 institution or other business or enterprise in an effective manner
20 that demonstrates their capacity to operate a degree-granting
21 institution.

22 (C) Evidence that the individuals having ownership or control
23 of the institution have ~~not engaged in fraudulent or deceptive~~
24 ~~practices~~ *consistently acted in accordance with applicable statutes*
25 *and regulations.*

26 (D) Evidence confirming the owner's capacity to operate the
27 institution in compliance with the standards set forth in this chapter
28 and other applicable state statutes and regulations and applicable
29 federal statutes and regulations that are relevant to the operation
30 of degree-granting institutions.

31 (E) The board may cause the institution to undergo site visits
32 and provide additional reports in support of its application for
33 permanent approval to offer degrees pursuant to this article.

34 (8) *Review by the board under this section of changes in*
35 *ownership shall be limited to reviewing the experience,*
36 *qualifications, and financial resources of the new ownership as*
37 *indicated in the application submitted pursuant to paragraph (7)*
38 *and in any other relevant information submitted to, or otherwise*
39 *reviewed by, the board.*

(d) If an institution is applying for approval to offer a particular degree program that had not been offered at the time the institution applied for approval to operate, the application for an additional degree program shall be made in writing upon forms to be provided by the board, and shall contain, at a minimum, all of the following information:

(1) A catalog published, or proposed to be published, by the institution containing the information specified in Section 94861 specific to the proposed program.

(2) A copy of the school performance fact sheet.

(3) For the program proposed, a description of the facilities and the equipment that is available for use by students at the main, branch, and satellite locations of the institution at which the program will be taught.

(4) A copy of the document awarded to graduating students upon their successful completion of the educational program.

(e) The application for a change of institution name shall be made in writing upon forms to be provided by the board, and shall contain, at a minimum, all of the following information:

(1) The current name, telephone number, and address of the institution.

(2) The proposed name, a copy of the fictitious name statement illustrating the new name, and the reason for the new name.

(3) The date on which the institution intends to begin using the new name and a description of the actions taken to notify students and graduates in including a copy of the notification for review.

(f) The application for a change in location or an additional location shall be made in writing upon forms to be provided by the board, and shall contain, at a minimum, all of the following information:

(1) The name, current and proposed addresses, and telephone number of the institution.

(2) A description of the proposed physical facilities including the reasons why the additional location or change in location is needed.

(3) For facilities that are leased or rented, the application shall contain the name and address of the lessor or landlord, together with a copy of any use, lease, or rental agreements for the facilities.

(4) (A) A description of any equipment to be used at the proposed facilities.

1 (B) For changes of location the institution need only provide a
2 description of what differences, if any, from the equipment used
3 at the present facility to any that will be at the proposed location.

4 (C) For additional locations, a description of the proposed
5 facility's planned utilization, including the programs and degrees
6 that will be offered, and the administrative and student services
7 that will be available.

8 (5) The date on which the institution intends to offer instruction
9 at the new location and, for changes in location, a description of
10 the actions taken to notify students in including a copy of the
11 notification for review.

12 (6) The distance between the approved location and the proposed
13 new location.

14 (g) The application for a change of mission or an addition or
15 change in methodology of instruction shall be made in writing
16 upon forms to be provided by the board, and shall contain, at a
17 minimum, all of the following information:

18 (1) The name, address, and telephone number of the institution.

19 (2) A description of the current mission and method or methods
20 of instruction and a description of the proposed mission or of the
21 new method or methods of instruction.

22 (3) A detailed explanation of the reasons for the proposed change
23 or additional methodology and how the change or changes will
24 affect students, administration, and the institution's financial
25 resources and how those effects will be monitored and evaluated,
26 including the process for determining whether the change achieves
27 the anticipated results.

28 (4) A description of how the institution will phase into the new
29 mission or the new method of instruction.

30 *(h) If an institution subject to this chapter proposes to change*
31 *from for-profit status to nonprofit status, that institution shall notify*
32 *the Attorney General and the board, in writing, no fewer than ____*
33 *days prior to the date that change is proposed to become effective.*
34 *The Attorney General and the board are both authorized to inform*
35 *the Secretary of State of any concerns they have, or risks to*
36 *consumers they anticipate, with respect to the proposed change*
37 *of the institution from for-profit to nonprofit status.*

38 94958. (a) Nonsignificant program modifications are those
39 that result in less than a 25 percent change in the program's credit
40 hours, changes to the name of an approved program, or a change

1 in the agent for service of process. Although the board does not
2 require prior approval of nonsignificant program modifications,
3 an institution shall notify the board, in writing, of any of these
4 types of modifications.

5 (b) An institution shall submit a detailed description of any
6 nonsignificant modifications with all attachments before the
7 modification taking effect. In the event that it is determined that
8 the program modification is in fact a substantive change, an
9 institution shall be required to submit the appropriate substantive
10 change application.

11 (c) For the purposes of this section, a minor change in the
12 curriculum to accommodate new technology, advances in the field
13 of study, ~~a new textbook~~, or *a new textbook* is not considered a
14 change that requires board notification.

15 94959. (a) No person shall own or operate a school, or give
16 instruction, for the driving of motortrucks of three or more axles
17 that are more than 6,000 pounds unladen weight, unless all of the
18 following conditions are met:

19 (1) The school or instruction has been approved by the board.

20 (2) The school, at the time of application and thereafter,
21 maintains both of the following:

22 (A) Proof of compliance with liability insurance requirements
23 that are the same as those established by the Department of Motor
24 Vehicles for a driving school owner, pursuant to Section 11103 of
25 the Vehicle Code, unless the board deems it necessary to establish
26 a higher level of insurance coverage.

27 (B) A satisfactory safety rating by the Department of the
28 California Highway Patrol is established pursuant to Division 14.8
29 (commencing with Section 34500) of the Vehicle Code.

30 (3) The school, at all times, shall maintain the vehicles used in
31 driver training in safe mechanical condition. The school shall be
32 enrolled and in compliance with the Biennial Inspection of
33 Terminals Program pursuant to subdivision (e) of Section 34501.12
34 of the Vehicle Code.

35 (4) The driving instructors meet the requirements set forth in
36 Section 11104 of the Vehicle Code.

37 (5) Any other terms and conditions required by the board to
38 protect the public safety or to meet the requirements of this chapter.

(b) No person shall own or operate a school, or give instruction, intended to lead to the issuance of a Class A commercial driver's license, unless all of the following conditions are met:

(1) The school meets the requirements of subdivision (a).

(2) At the time of application and thereafter, the school maintains a Class A commercial driver's license curriculum that includes all of the following:

(A) The skills or knowledge necessary to allow a student to demonstrate competency in the following subjects:

(i) Basic operation, including control systems; vehicle inspections; basic vehicle control; shifting, turns, and backing; coupling and uncoupling; and highway driving.

(ii) Safe operating practices, including visual search; vehicle communication; speed management; and space management.

(iii) Advanced operating practices, including extreme driving conditions, and night operations; hazard perception; emergency maneuvers; and skid prevention and recovery.

(iv) Vehicle systems and reporting malfunctions, including air brakes; engine operation; and brake inspection.

(v) Nonvehicular activities, including handling and documenting cargo; basic hazard material handling; hours of service requirements; accident procedures; trip planning; communication skills; and fatigue management.

(B) The form and manner in which the skills and knowledge will be taught and assessed.

(3) The school assesses student competency for each of the knowledge and skill requirements set forth in subparagraph (A) of paragraph (2) either by observing the student performing the skill and assessing the student's competency level, or by administering a written knowledge test to the student.

(4) The school maintains the following documentation for each student:

(A) The date each assessment was administered.

(B) The name of the instructor or evaluator.

(C) The score or grade of each assessment.

(D) The minimal passing score for each assessment.

(E) The competencies and performance standards evaluated in each assessment.

1 (5) The school provides each prospective student with a clear
2 and unambiguous rate schedule documenting the cost of the
3 training, including all obligations relating to employment.

4
5 Article 9. Programs
6

7 95000. (a) It is the intent of the Legislature, in enacting this
8 article, to proactively enforce the provisions of this article while
9 implementing a less rigorous application process for registration,
10 thereby allowing businesses to focus on providing student services
11 and their promised product and, thereby, substantially benefitting
12 the economy and citizens of this state. It is further intended that
13 businesses operating under this chapter will be able to respond to
14 the diverse needs of the state's marketplace and service industries
15 by incorporating a simpler process that rewards those that are
16 financially responsible, well-managed, that fully disclose the
17 student's financial and contractual obligations, and that deliver
18 the training and education promised, while impeding those
19 businesses that fail to fulfill their contractual and ethical obligations
20 to the California community.

21 (b) Educational services or programs, or short-term educational
22 programs, that are nonacademic or noncredit bearing in nature and
23 designed to prepare students to take licensure, registration, or
24 certification examinations, shall be approved by the agency giving
25 the examination. Approval shall be obtained before students enroll
26 in the program, if possible. If not, the institution shall take all steps
27 necessary to obtain approval before students enroll in the program.

28 95001. (a) A private postsecondary educational entity, or an
29 institution that is exempt from this chapter, shall not offer
30 educational services or programs or short-term educational
31 programs, that are nonacademic or noncredit bearing in nature and
32 designed to prepare students to take licensure, registration, or
33 certification examinations, unless the program has been approved
34 by the agency giving the examination, or the institution is in the
35 process of obtaining that approval.

36 (b) Any institution offering a program described in subdivision
37 (a) that is not approved by the agency giving the examination shall
38 disclose the following to the student in writing:

39 "THIS PROGRAM IS NOT APPROVED. COMPLETION OF
40 THIS PROGRAM MAY NOT QUALIFY YOU TO BE

LICENSED / CERTIFIED / REGISTERED TO WORK AS A
 _____. THIS PROGRAM IS UNDER REVIEW BY
 __(professional agency)_____ AND IT IS EXPECTED
 THAT THIS PROGRAM WILL BE APPROVED BY
 __(date)_____. YOU WILL BE NOTIFIED PERIODICALLY
 OF OUR PROGRESS IN GETTING THE PROGRAM
 APPROVED. IF THERE ARE DELAYS THAT MAY RESULT
 IN THE PROGRAM BEING UNAPPROVED AT THE TIME
 OF YOUR COMPLETION OF THE PROGRAM, YOU WILL
 BE OFFERED A PRORATED REFUND OF YOUR TUITION
 AT THAT TIME.”

(c) Any institution required to provide a notice under subdivision
 (b) shall notify the students in writing not less than monthly of the
 institution’s progress in getting the program approved. This shall
 include any delays in the approval and a dollar amount offer of a
 prorated refund of the tuition.

95001.5. *The board may approve a new program, without any
 site visit, if the additional program is represented to lead to an
 occupation that requires skills or work activities reasonably related
 to those required by occupations requiring skills in a minor group
 of the Bureau of Labor Statistics of the United States Department
 of Labor Standard Occupational Classifications that also includes
 an occupation to which at least one existing program offered in
 California and approved by the bureau is represented to lead.*

95002. The board may implement regulations to interpret and
 enforce this article.

Article 10. Allied Health Programs

95050. ~~Institutions that provide~~ *An institution subject to this
 chapter that provides medical training providing for students to
 interact with health care patients shall patients, and that is required
 to provide criminal background checks, medical blood tests, and
 drug tests on their students, and its students, shall keep complete,
 accurate, and up-to-date files of these checks and tests test results.*

95051. Records kept under this article shall be available for
 review by the medical facility in which the students are obtaining
 their clinical rotation work, by law enforcement personnel, and by
 the board.

1 95052. An institution shall implement procedures to ensure
2 that records kept under this article are safeguarded and that the
3 privacy rights of students *are* protected.

4
5 Article 11. Distance Learning
6

7 95060. A distance learning institution delivering education
8 leading to a particular vocational, trade, or career field through
9 distance learning to California students, whether the education
10 leads to a degree or not, shall be approved by the board under Tier
11 1, as defined in Section 94955, if the school is approved and in
12 good standing with the regulatory agency in the home state of that
13 institution and that regulatory agency has a reciprocal agreement
14 with the board. An institution shall provide disclosures to California
15 students as required under California law, participate in the Student
16 Tuition Recovery Fund, and allow students to have a private right
17 of action under this chapter. No out-of-state distance learning
18 institution may provide services to California students unless
19 approved under this article.

20 95061. *(a) A distance learning school that offers distance*
21 *education to California students but is located outside of this state*
22 *shall register with the board. Upon registering with the board,*
23 *that institution shall be a Tier 1 institution if the board has entered*
24 *into a reciprocal agreement with the appropriate regulatory agency*
25 *in the state in which that institution is located.*

26 *(b) The board shall enter into reciprocal agreements with the*
27 *appropriate regulatory agencies in other states by December 31,*
28 *2008, in order to regulate distance learning schools. These*
29 *agreements shall include, but not necessarily be limited to,*
30 *provisions requiring full sharing of information related to*
31 *enforcement, complaints, and compliance by the signatory states.*

32 *(c) Renewal of approval to operate under this article shall*
33 *consist only of re-registration by the school unless there has been*
34 *an enforcement action against that school during the prior period*
35 *of licensure. If there has been an enforcement action against that*
36 *school, the school shall be subject to a full application process as*
37 *would apply to any similarly situated school that is subject to this*
38 *chapter.*

39 *(d) With respect to any state with which the board has not*
40 *entered into a reciprocal agreement, any school located in that*

1 *state that offers distance education to California students is subject*
2 *to this chapter, and shall be regulated in the same manner as would*
3 *any similarly situated school that is subject to this chapter.*

4 95062. *To allow time for the board to enter into reciprocal*
5 *agreements with other states pursuant to Section 95061, the board*
6 *shall not enforce this article prior to January 1, 2009.*

7
8 Article 12. Prohibited Practices, Enforcement, and Judicial
9 Procedures

10
11 95070. (a) Any violation of this chapter may be subject to
12 fines, citations, and enforcement actions that may include, and not
13 necessarily be limited to, the following:

14 (1) First offense: a citation and fine not to exceed ____ dollars
15 (\$____).

16 (2) Second offense: a citation and fine not to exceed ____ dollars
17 (\$____).

18 (3) Third offense: a citation and fine not to exceed ____ dollars
19 (\$____).

20 (4) Subsequent ongoing offenses may be subject to criminal
21 prosecution as either a misdemeanor or felony, within the discretion
22 of the prosecutor, in accordance with Section 95077.

23 (b) The board may require a corrective action plan to be adopted
24 to resolve violations.

25 (c) (1) The board may move an institution from Tier 1 to Tier
26 2 or Tier 3, or from Tier 2 to Tier 3, as defined in Section 94955,
27 based on violations of this chapter.

28 (2) The board may also recognize corrective action and move
29 an institution from Tier 3 to Tier 2 or Tier 1, or from Tier 2 to Tier
30 1, as defined in Section 94955 based on corrective actions to
31 address violations of this chapter.

32 (3) The board shall adopt regulations by December 31, 2008,
33 to provide the criteria for moving an institution from one tier to
34 another.

35 (d) *The board shall adopt regulations specifying the amounts*
36 *of the fines authorized by this article.*

37 ~~(d)~~

38 (e) All citations and fines are subject to appeal through the
39 Office of Administrative Hearings under Chapter 4 (commencing
40 with Section 11400) of, and Chapter 5 (commencing with Section

1 11500) of, Part 1 of Division 3 or Title 2 of the Government Code.
2 *Orders of the Office of Administrative Hearings made pursuant*
3 *to appeals made under this chapter may be appealed to the*
4 *Director of Consumer Affairs. Orders of the Director of Consumer*
5 *Affairs made pursuant to appeals made under this chapter may be*
6 *appealed to a court of competent jurisdiction.*

7 *(e) This article applies to all private and public actions,*
8 *prosecutions, and remedies arising on before June 30, 2007,*
9 *pursuant to former Chapter 7 (commencing with Seciton 94700)*
10 *as it existed on June 30, 2007.*

11 95071. (a) The Attorney General, or any district attorney, or
12 city attorney, may make investigations as may be necessary to
13 carry out this chapter, including, but not necessarily limited to,
14 investigations of complaints, and may obtain from the board,
15 without charge, any document related to an institution that may
16 be useful to an investigation of that institution. The board may
17 jointly bring actions as necessary to enforce this chapter, including,
18 but not necessarily limited to, civil actions for injunctive relief. ~~In~~
19 ~~actions brought pursuant to this subdivision, the board shall be~~
20 ~~represented by the Attorney General.~~

21 ~~(b) The Attorney General shall represent the board in the~~
22 ~~following administrative proceedings arising under this chapter:~~

23 ~~(1) Suspension or revocation of an institution's approval.~~
24 ~~(2) Denial of an institution's application for approval.~~
25 ~~(3) An appeal of a conditional approval to operate issued~~
26 ~~following a review of an institution's application for approval.~~

27 ~~(e)~~

28 (b) Nothing in this section or this chapter shall preclude the
29 Attorney General, or any district attorney or city attorney, from
30 any of the following:

31 (1) Bringing any action on behalf of the people as he or she is
32 empowered by law to bring, including, but not necessarily limited
33 to, actions based upon alleged violations of Chapter 5 (commencing
34 with Section 17200) of Part 2, and Chapter 1 (commencing with
35 Section 17500) of Part 3, of Division 7 of the Business and
36 Professions Code.

37 (2) Conducting investigations necessary to determine whether
38 there have been violations of law specified in paragraph (1).

1 (3) Conducting any investigations that he or she is authorized
2 to conduct, including, but not necessarily limited to, investigations
3 authorized under Section 11180 of the Government Code.

4 (4) In the case of the Attorney General, delegating his or her
5 representation authority under subdivision (b) to staff attorneys of
6 the board.

7 (5) Entering into an agreement or understanding with the board
8 with respect to representation in any judicial or administrative
9 proceeding not expressly enumerated herein.

10 *(d) An institution shall reimburse the board, the Attorney*
11 *General, or the district attorney or city attorney, as appropriate,*
12 *for the reasonable cost of any investigation undertaken under this*
13 *chapter that provides information leading to, or relevant to, an*
14 *action of the board to revoke the institution's approval to operate*
15 *or to place the institution on probation.*

16 95072. No institution or representative of that institution shall
17 do any of the following:

18 (a) Operate in this state a postsecondary educational institution
19 not exempted from this chapter, unless the institution is currently
20 approved to operate pursuant to this chapter. The board may
21 institute an action, pursuant to this article, to prevent any individual
22 or entity from operating an institution or program in this state that
23 has not been approved to operate pursuant to this chapter and to
24 obtain any relief authorized by that section.

25 (b) Instruct or educate, or offer to instruct or educate, including
26 soliciting for those purposes, enroll or offer to enroll, contract or
27 offer to contract with any person for that purpose, or award any
28 educational credential, or contract with any institution, or party to
29 perform any act, in this state, whether that person, representative,
30 group, or entity is located within or without this state, unless that
31 person, representative, group, or entity observes and is in
32 compliance with the minimum standards set forth in this article.

33 (c) Use, or allow the use of, any reproduction or facsimile of
34 the Great Seal of the State of California on any diploma or
35 certificate of completion.

36 (d) Promise or guarantee employment.

37 (e) Advertise concerning job availability, degree of skill and
38 length of time required to learn a trade or skill unless the
39 information is accurate and in no way misleading.

1 (f) Advertise, or indicate in any promotional material, that
2 correspondence instruction, or correspondence courses of study
3 are offered without including in all advertising or promotional
4 material the fact that the instruction or programs of study are
5 offered by correspondence.

6 (g) Advertise, or indicate in any promotional material, that
7 resident instruction, or programs of study are offered without
8 including in all advertising or promotional material the location
9 where the training is given or the location of the resident
10 instruction.

11 (h) Solicit students for enrollment by causing any advertisement
12 to be published in “help wanted” columns in any magazine,
13 newspaper, or publication or use “blind” advertising that fails to
14 identify the school or institution.

15 (i) Advertise, or indicate in any promotional material, that the
16 institution is accredited, unless the institution has been recognized
17 or approved as meeting the standards established by an accrediting
18 agency recognized by the United States Department of Education
19 or the Committee of Bar Examiners for the State of California.

20 (j) Fail to comply with federal requirements relating to the
21 disclosure of information to students.

22 (k) Discontinuance of, or change in, an approved institutional
23 operation such as closure of a branch or satellite, without prior
24 notification to, and approval by, the board.

25 (l) An institution that offers ESL instruction, intensive English
26 language program, or an educational service approved by the
27 United States Immigration and Naturalization Service to a student
28 shall not enroll the student in any educational service presented in
29 the English language unless the student passes a test indicating
30 that he or she has attained adequate proficiency in oral and written
31 English to comprehend instruction in English.

32 95073. (a) No institution or representative of an institution
33 shall make or cause to be made any statement that is in any manner
34 untrue or misleading, either by actual statement, omission, or
35 intimation.

36 (b) No institution or representative of an institution shall engage
37 in any false, deceptive, misleading, or unfair act in connection
38 with any matter, including the institution’s advertising and
39 promotion, the recruitment of students for enrollment in the
40 institution or program, the offer or sale of a program of instruction,

1 course length, course credits, the withholding of equipment,
2 educational materials, or loan or grant funds from a student,
3 training and instruction, the collection of payments, or job
4 placement.

5 (c) An institution is liable in any civil or administrative action
6 or proceeding for any violation of this article committed by a
7 representative of the institution. An institution is liable in a criminal
8 action for violations of this article committed by a representative
9 of the institution to the extent permitted by law.

10 (d) (1) *No* institution or representative of an institution shall
11 induce a person to enter into an agreement for a program of
12 instruction by offering to compensate that person to act as the
13 institution's representative in the solicitation, referral, or
14 recruitment of others for enrollment in the institution or program.

15 (2) No institution or representative of an institution shall offer
16 to pay, or pay, any consideration to a student or prospective student
17 to act as a representative of the institution with regard to the
18 solicitation.

19 (e) No institution shall compensate a representative involved
20 in recruitment, enrollment, admissions, student attendance, or sales
21 of equipment to students on the basis of a commission, commission
22 draw, bonus, quota, or other similar method except as follows:

23 (1) If the program of instruction is scheduled to be completed
24 in more than 90 days, the institution shall pay compensation related
25 to a particular student as follows:

26 (A) No compensation shall be paid for at least 90 days after that
27 student has begun the program.

28 (B) Up to one-half of the compensation may be paid before the
29 student completes the program only if the student has made
30 satisfactory academic progress, documented by the institution in
31 the student's file, for more than 90 days.

32 (C) The remainder of the compensation shall be paid only after
33 the student's completion of the program. This subdivision shall
34 not prevent the payment at any time of an hourly, weekly, monthly,
35 or annual wage or salary.

36 (f) No institution or representative of an institution shall pay
37 any consideration to a person to induce that person to sign an
38 agreement for a program of instruction.

39 (g) (1) No institution or representative of an institution shall in
40 any manner make any untrue or misleading change in, or untrue

1 or misleading statement related to, any test score, grade, record of
2 grades, attendance record, record indicating student completion
3 or employment, financial information, including any of the
4 following:

5 (A) Any financial report required to be filed pursuant to ~~Sections~~
6 ~~94853 to 94808, inclusive~~ *Article 6 (commencing with Section*
7 *94850)*.

8 (B) Any information or record relating to the student's eligibility
9 for financial assistance or attendance at the institution.

10 (C) Any other record or document required by this chapter or
11 by the board.

12 (2) No institution or representative of an institution shall falsify,
13 destroy, or conceal any record or other item described in paragraph
14 (1) while that record or item is required to be maintained by this
15 chapter or by the board.

16 (h) No institution or representative of an institution shall use
17 the terms "approval," "approved," "approval to operate," or
18 "approved to operate" without stating clearly and conspicuously
19 that approval to operate means compliance with minimum state
20 standards and does not imply any endorsement or recommendation
21 by the state or by the board.

22 (1) The institution or its programs of instruction are endorsed
23 or recommended by the state or by the board.

24 (2) The board's grant to the institution of approval to operate
25 indicates that the institution exceeds minimum state standards.

26 (3) The board or the state endorses or recommends the
27 institution.

28 (j)

29 (i) No institution offering programs or courses of instruction
30 represented to lead to occupations or job titles requiring licensure
31 shall enter into an agreement for a course of instruction with a
32 person whom the institution knows or, by the exercise of reasonable
33 care, should know, would be ineligible to obtain licensure in the
34 occupation or job title to which the course of instruction is
35 represented to lead, at the time of the scheduled date of course
36 completion, for reasons such as age, physical characteristics, or
37 relevant past criminal conviction.

38 (k)

1 (j) No institution shall divide or structure a program of
2 instruction or educational service to avoid the application of any
3 provision of this chapter.

4 ~~(h)~~

5 (k) No institution or representative of an institution shall direct
6 a representative to perform any unlawful act, to refrain from
7 complaining or reporting unlawful conduct to the board or another
8 government agency, or to engage in any unfair act to persuade a
9 student not to complain to the board or another government agency.

10 ~~(m)~~

11 (l) No institution or representative of an institution approved to
12 operate a school or give instruction under this chapter shall do
13 either of the following:

14 (1) Reduce the wages of a trainee in order to recover the cost
15 of training unless the trainee is advised of the payment arrangement
16 before accepting employment.

17 (2) Advertise its training as free or no cost if a trainee is required
18 to enter into an employment arrangement or lease or rent services
19 or equipment, including a motortruck, as a condition of receiving
20 the training.

21 95074. The board may refuse to issue or renew any private
22 postsecondary educational institution's approval to operate, place
23 an institution on probation, or may revoke any approval to operate
24 for any of the following causes:

25 (a) A violation of this chapter, or any standard, rule, or
26 regulation established under this chapter, or an order of the board
27 made under this chapter.

28 (b) Furnishing false, misleading, or incomplete information to
29 the board, or the failure to furnish information requested by the
30 board or required by this chapter.

31 (c) A finding that an owner, a person in control, a secretary, or
32 an officer of an institution is not in compliance with this chapter
33 or was not in compliance with applicable law while serving as an
34 owner, person in control, secretary, or officer of an institution
35 within the previous five-year period.

36 (d) A finding that a signatory to an application for an approval
37 to operate was responsible for the closure of any institution in
38 which there were unpaid liabilities to any state or federal
39 government, or uncompensated pecuniary losses suffered by
40 students without restitution.

1 (e) A finding that the applicant, owner, or persons in control
2 have been found previously in any judicial or administrative
3 procedure to have violated this chapter or admitted to having
4 violated this chapter.

5 (f) A finding that there was either a denial of a previous
6 application submitted by the same institution to the board or its
7 predecessor, the board, or a revocation of the institution's approval
8 and that the conditions or violations that were the cause of the
9 denial or revocation have not been corrected.

10 (g) The failure of the institution to maintain the minimum
11 educational standards prescribed by this chapter, or to maintain
12 standards that are the same as, or substantially equivalent to, those
13 represented in the school's applications and advertising.

14 (h) Presenting to prospective students information that is false
15 or misleading relating to the school, to employment opportunities,
16 or to enrollment opportunities in institutions of higher learning
17 after entering into or completing courses offered by the school.

18 (i) The failure to maintain financial resources adequate for the
19 satisfactory conduct of the courses of instruction offered as required
20 by statute.

21 (j) The failure to provide timely and correct refunds to students.

22 (k) Paying a commission or valuable consideration to any
23 persons for acts or services in violation of this chapter.

24 (l) Attempting to confer a degree, diploma, or certificate to any
25 student in violation of this chapter.

26 (m) Misrepresenting to any students or prospective students that
27 they are qualified, upon completion of any course, for admission
28 to professional examination under any state occupational licensing
29 provision.

30 (n) The failure to correct any deficiency or act of noncompliance
31 under this chapter, or the standards, rules, regulations, and orders
32 established and adopted under this chapter within reasonable time
33 limits set by the board.

34 (o) The conducting of business or instructional services at any
35 location not approved by the board.

36 (p) Failure on the part of an institution to comply with provisions
37 of law or regulations governing sanitary conditions of that
38 institution specified in Division 2 (commencing with Section 500)
39 and Division 3 (commencing with Section 5000) of the Business
40 and Professions Code.

1 (q) The failure to pay any fees, orders for costs and expenses
2 under Section 95077, assessments, or penalties owed to the board,
3 as provided in this chapter.

4 ~~95075. (a) The Attorney General shall act as legal counsel for~~
5 ~~the board for any judicial and administrative proceedings, and his~~
6 ~~or her services shall be charged against the board.~~

7 *95075. (a) The board, with the assistance and guidance of,*
8 *and in cooperation with, the Attorney General, shall develop the*
9 *board's enforcement program under this chapter. This program*
10 *shall include but not necessarily be limited to, all of the following:*

11 *(1) Initial and periodic training of enforcement staff.*

12 *(2) The review of student files as part of any site visit.*

13 *(3) The completion of audits and site visits, which may be*
14 *unannounced, that are occasioned by complaints or by events that*
15 *the board determines to be causes of reasonable concern.*

16 *(4) Assurance that each institution that is subject to this chapter*
17 *is complying with its provisions and that institutions that are out*
18 *of compliance are appropriately disciplined.*

19 *(b) The board shall direct all enforcement actions and*
20 *investigations under this chapter. The board has the discretion to*
21 *request the assistance of the Attorney General in any of those*
22 *actions and investigations.*

23 ~~(b)~~

24 *(c) The board shall review and investigate all institutions, and*
25 *may review and investigate all programs, and programs of*
26 *instruction approved under this chapter. Consideration in the*
27 *scheduling of reviews and investigations shall be afforded to*
28 *student complaints and information collected by the Attorney*
29 *General, the Student Aid Commission, or any other federal, state,*
30 *or local agency.*

31 ~~(c)~~

32 *(d) The board shall conduct periodic unannounced reviews and*
33 *investigations of institutions to determine compliance with this*
34 *chapter.*

35 ~~(d)~~

36 *(e) If there is reasonable cause to believe that there has been a*
37 *violation by a private postsecondary educational institution of the*
38 *standards prescribed by this chapter, the board shall conduct an*
39 *investigation of the institution.*

40 ~~(e)~~

1 (f) The board may direct staff and any other authorized person
2 or persons to investigate alleged violations.

3 ~~(f)~~

4 (g) The board reserves the right to impanel a visiting committee
5 to review allegations of noncompliance committed by an
6 institution. The scope and composition of the visiting committee
7 shall be at the discretion of the board.

8 ~~(g)~~

9 (h) At the board's request in connection with an investigation
10 to determine compliance with this chapter, an institution, during
11 its normal business hours, shall immediately make available for
12 inspection and copying all records required to be maintained by
13 this chapter or that relate to the institution's compliance with this
14 chapter. The institution shall permit the board's representatives to
15 have immediate access to the institution's primary administrative
16 location and sites of instruction during the institution's normal
17 business hours to examine and copy these records, to inspect the
18 institution's physical facilities, equipment, library and other
19 learning resources, and to interview school administrators, faculty,
20 and students.

21 ~~(h)~~

22 (i) ~~The attorney general of this state~~ *Attorney General*, at the
23 request of the board may bring *any* appropriate action or proceeding
24 (including injunctive proceedings, or criminal proceedings), in
25 any court of competent jurisdiction for the enforcement of the
26 provisions of this chapter.

27 ~~(i)~~

28 (j) Notwithstanding any other provision of law, the Attorney
29 General and his or her investigative agents, and investigators and
30 representatives of the board, may inquire into any alleged violation
31 of this chapter.

32 *95075.5. On or before June 30, 2010, the board and the*
33 *Attorney General shall jointly provide the Governor and the*
34 *Legislature with a report on the board's enforcement activities*
35 *under this chapter. On or before June 30, 2011, and on or before*
36 *June 30 of each year thereafter, the board shall provide that report*
37 *to the Governor and the Legislature. The reports required by this*
38 *section shall include, but not necessarily be limited to, all of the*
39 *following information with respect to the year covered by the*
40 *report:*

1 (a) *Information relating to the board's enforcement budget.*

2 (b) *Information relating to the board's enforcement staff.*

3 (c) *Information relating to the adoption of enforcement*
4 *procedures and policies.*

5 (d) *Information describing the cooperation between the board*
6 *and the Attorney General.*

7 (e) *Information relating to the enforcement actions taken by the*
8 *board.*

9 95076. (a) Within 30 days of any action by any accrediting
10 agency that establishes, reaffirms, or publicly sanctions the
11 accreditation of any private postsecondary educational institution
12 operating in the state, the accrediting agency shall notify the board
13 of that action and shall provide a copy of any public statements
14 regarding the reasons for the accrediting agency's action.

15 (b) If the board, the Attorney General, any district attorney or
16 city attorney, or the Student Aid Commission is conducting a
17 confidential investigation of an institution and so informs the
18 accrediting agency, the accrediting agency shall not inform that
19 institution or registrant of the investigation.

20 (c) If an accrediting agency willfully fails to comply with this
21 section, the accrediting agency shall be liable for a civil penalty
22 of not less than two thousand five hundred dollars (\$2,500) or
23 more than twenty-five thousand dollars (\$25,000) for each
24 violation. Penalties awarded pursuant to this section shall be
25 deposited in the Private Postsecondary *and Vocational* Education
26 Administration Fund, or any successor fund, and shall be deposited
27 in the appropriate account, pursuant to Article 5 (commencing
28 with Section 94820).

29 95077. (a) Any person who, or any business entity, regardless
30 of the form of organization, that, willfully violates this chapter is
31 guilty of a crime, and shall be subject to separate punishment for
32 each violation either by imprisonment in a county jail not to exceed
33 one year, by a fine not to exceed ten thousand dollars (\$10,000),
34 or by both that imprisonment and fine; or by imprisonment in the
35 state prison, by a fine not to exceed fifty thousand dollars
36 (\$50,000), or by both that imprisonment and fine.

37 (b) Notwithstanding any other law, any prosecution under this
38 section shall be commenced within three years of the discovery
39 of the facts constituting grounds for commencing the prosecution.

1 (c) The penalties provided by this section supplement, but do
2 not supplant, the remedies and penalties provided under other law.

3 (d) In addition to any other fines or penalties imposed pursuant
4 to this section, any person or business entity found guilty of a crime
5 as described in subdivision (a) shall be ordered to pay the Attorney
6 General, any district attorney, or any city attorney all of their costs
7 and expenses in connection with any investigation incident leading
8 to that prosecution. An institution shall not be required to pay the
9 same costs and expenses to more than one investigating agency.

10 95078. Before any institution may be considered for approval
11 or renewal of approval to operate, the institution, at a minimum,
12 shall pay all annual fees, assessments to the Student Tuition
13 Recovery Fund, orders for costs and expenses under Section 95077,
14 and penalties in arrears retroactive to January 1, 1990. If an
15 institution that has failed to make timely payments of fees and
16 assessments is approved, the application for approval shall be
17 denied without appeal and the approval shall be terminated.

18 95079. (a) If an institution does not comply with Section
19 94853, the board may do any, or any combination of, the following:

20 (1) Require the institution to establish and implement a financial
21 plan to ensure compliance with Section 94853.

22 (2) Require the institution to post satisfactory security for the
23 performance of its financial obligations pursuant to Section 94853.

24 (3) Require the institution to furnish additional information such
25 as an audit report of financial statements prepared by a California
26 licensed certified public accountant who is not an employee,
27 officer, or director of the institution.

28 (b) In any action or proceeding involving an institution's failure
29 to comply with Section 94853, there shall be a presumption
30 affecting the burden of proof that the institution does not have
31 sufficient financial resources if the institution fails to meet any of
32 the standards set forth in Section 94853.

33 95080. If any person willfully violates this chapter and the
34 violation results in the closure of an institution, that person shall
35 pay to all students of the closed institution full refunds or full
36 compensation for actual damages resulting from the closure that
37 were not paid by the closed institution.

38 95081. (a) If an institution violates a provision of this article
39 or commits an act in violation of Section 94864 or 95085 in
40 connection with an agreement for a program of instruction, that

1 agreement shall be unenforceable, and the institution shall refund
2 all consideration paid by or on behalf of the student.

3 (b) Notwithstanding any provision in an agreement, a student
4 may bring an action for a violation of this article or Section 94864
5 or 95085 for an institution's failure to perform its legal obligations
6 and, upon prevailing, shall be entitled to the recovery of damages,
7 equitable relief, any other relief authorized by this article, and
8 reasonable attorney's fees and costs.

9 (c) If a court finds that a violation was willfully committed or
10 that the institution failed to refund all consideration as required by
11 subdivision (a) on the student's written demand, the court, in
12 addition to the relief awarded under subdivision (b), shall award
13 a civil penalty of up to three times the amount of the damages
14 sustained by the student.

15 (d) The remedies provided in this article supplement, but do not
16 supplant, the remedies provided under other provisions of law.

17 (e) An action brought under this section shall be commenced
18 within three years of the discovery of the facts constituting grounds
19 for commencing the action.

20 (f) Any provision in any agreement that purports to require a
21 student to invoke any grievance dispute procedure established by
22 the institution or any other procedure before bringing an action to
23 enforce any right or remedy is void and unenforceable.

24 (g) A student may assign his or her causes of action for a
25 violation of this article to the board, or to any state or federal
26 agency that guaranteed or reinsured a loan for the student or
27 provided any grant or other financial aid.

28 95082. (a) The Attorney General, or any district attorney, or
29 city attorney, may make investigations as may be necessary to
30 carry out this chapter, including, but not necessarily limited to,
31 investigations of complaints. The board may jointly bring actions
32 as necessary to enforce this chapter, including, but not necessarily
33 limited to, civil actions for injunctive relief. In actions brought
34 pursuant to this subdivision, the Attorney General shall represent
35 the board.

36 (b) The Attorney General shall represent the board in the
37 following administrative proceedings arising under this chapter:

38 (1) Revocation of an institution's approval to operate or
39 revocation of a specific program or location approval.

(2) Denial of an institution's application for approval or a denial of an additional program, change of location, change of name, change of methodology, or an addition of a branch or satellite.

(3) An appeal of a conditional approval to operate or probation.

(c) Nothing in this section or this chapter shall preclude the Attorney General, or any district attorney or city attorney, from any of the following:

(1) Bringing any action on behalf of the people as he or she is empowered by law to bring, including, but not necessarily limited to, actions based upon alleged violations of Chapter 5 (commencing with Section 17200) of Part 2, and Chapter 1 (commencing with Section 17500) of Part 3, of Division 7 of the Business and Professions Code.

(2) Conducting investigations necessary to determine whether there have been violations of law described in paragraph (1).

(3) Conducting any investigations that he or she is authorized to conduct, including, but not necessarily limited to, investigations authorized under Section 11180 of the Government Code.

(4) In the case of the Attorney General, delegating his or her representation authority under subdivision (b) to staff attorneys of the board.

(5) Entering into an agreement or understanding with the board with respect to representation in any judicial or administrative proceeding not expressly enumerated herein.

(6) Bringing an action for equitable relief for any violation of this chapter. The equitable relief may include restitution, a temporary restraining order, the appointment of a receiver, and a preliminary or permanent injunction. The action may be brought in the county in which the defendant resides or in which any violation has occurred or may occur.

(d) The remedies provided in this section supplement, but do not supplant, the remedies and penalties under other law.

95083. (a) In addition to or in lieu of any other remedy or penalty, the board may issue a citation to an institution for committing any violation of this chapter or regulation adopted under this chapter.

(b) The citation may contain an order of abatement or the assessment of an administrative fine. The administrative fine shall not exceed two thousand five hundred dollars (\$2,500) for each violation. The board shall base its assessment of the administrative

1 fine on the nature and seriousness of the violation, the persistence
2 of the violation, the good faith of the institution, the history of
3 previous violations, and the purposes of this chapter.

4 (c) Citations shall be issued to institutions by the director for
5 failure to meet procedural requirements of the act. For the purposes
6 of this section, the board designates the following offenses for
7 violations with an accompanying penalty:

8 (1) Failure to notify the board of a change of location for a
9 “main,” “branch,” or ~~“satellite” or an offering~~ “satellite,” or an
10 offering of educational services at an unapproved location carries
11 a fine of five hundred dollars (\$500) per occurrence.

12 (2) Failure to notify the board of a change of program title or
13 an additional program carries a fine of one thousand dollars
14 (\$1,000) per occurrence.

15 (3) Failure to provide access to board representatives to inspect
16 the institution for the purpose of ~~an scheduled or unscheduled on~~
17 ~~site~~ a scheduled or unscheduled onsite visit during “normal”
18 business hours carries a fine of five hundred dollars (\$500) per
19 occurrence.

20 (4) Issuance of a worthless bank check to the board carries a
21 fine of one hundred dollars (\$100) per occurrence.

22 (5) Failure to provide a written response to a complaint filed by
23 the board on behalf of a student complainant carries a fine of five
24 hundred dollars (\$500) per occurrence.

25 (d) The remedies provided in this section supplement, but do
26 not supplant, the remedies and penalties under other provisions of
27 law.

28 (e) The citation shall be in writing and shall describe the nature
29 of the violation and the specific provision of law that was violated.
30 The citation shall inform the institution of its right to request a
31 hearing in writing within 15 days of the date that the citation was
32 issued. If a hearing is not requested, payment of the administrative
33 fine shall not constitute an admission of the violation charged. If
34 a hearing is requested, the board shall provide a hearing. Payment
35 of the administrative fine is due 15 days after the citation was
36 issued if a hearing is not requested, or when a final order is entered
37 if a hearing is requested. The board may enforce the administrative
38 fine as if it were a money judgment pursuant to Title 9
39 (commencing with Section 680.10) of Part 2 of the Code of Civil
40 Procedure.

1 (f) All administrative fines shall be deposited in the Private
2 Postsecondary and Vocational Education Administration Fund in
3 the appropriate account, pursuant to Article 5 (commencing with
4 Section 94820).

5 95085. (a) Any institution that willfully violates any provision
6 of this chapter shall not enforce any contract or agreement arising
7 from the transaction in which the violation occurred, and any
8 willful violation is a ground for revoking an approval to operate
9 in this state or for denying a renewal application.

10 (b) Any person who claims that an institution is operating in
11 violation this chapter, or an institution is operating a branch or
12 satellite campus in violation of this chapter, may bring an action,
13 in a court of competent jurisdiction, for the recovery of actual and
14 or statutory damages as well as an equity proceeding to restrain
15 and enjoin those violations, or both.

16 (1) At least 35 days before the commencement of an action
17 pursuant to this subdivision, the plaintiff shall do all of the
18 following:

19 (A) Notify the institution alleged to have violated this chapter,
20 of the particular alleged violations.

21 (B) Demand that the institution apply for the board's approval
22 to operate as required by Article 8 (commencing with Section
23 94950).

24 (C) The notice shall be in writing, and shall be sent by regular
25 mail and certified or registered mail, return receipt requested, to
26 the location of the institution that is allegedly operating in violation
27 of Article 8 (commencing with Section 94950).

28 (D) The institution shall have 30 working days, from receipt of
29 the notice, to file an application for approval to operate with the
30 board.

31 (E) No action pursuant to this subdivision may be filed if the
32 institution, within 30 working days after receipt of the notice,
33 applies for the board's approval to operate as required by Article
34 8 (commencing with Section 94950).

35 (F) If, within 35 days after receipt of the notice, the board has
36 not received an application from the institution, the board shall
37 mail the plaintiff a certification that the institution has not applied
38 or been approved to operate pursuant to Article 8 (commencing
39 with Section 94950).

(G) (1) The plaintiff shall also notify the board, by certified or registered mail, return receipt requested, that he or she intends to bring an action pursuant to this section against the institution. Upon receipt of this notice, the board shall immediately investigate the institution's compliance with Article 6 (commencing with Section 94850), Article 7 (commencing with Section 94900), or Article 10 (commencing with Section 95000), whichever is applicable, and, if the board determines that the institution has violated the applicable section, the board shall immediately order the institution to cease and desist operations. For each day that the institution continues to operate in violation of the board's cease and desist order, the institution shall be fined one thousand dollars (\$1,000).

(2) If the court finds that the institution has violated this chapter, all of the following shall occur:

(A) The court shall order the institution to cease all operations and to comply with all procedures set forth in this code pertaining to the closure of institutions.

(B) The court shall order the institution to pay all students who enrolled while the school was in violation, a refund of all tuition and fees paid to the institution and a statutory penalty of one thousand dollars (\$1,000).

(C) The court shall order the institution to pay the prevailing party's ~~attorneys'~~ attorney's fees and costs.

(D) The court shall order the institution to pay to the board all fines incurred pursuant to subparagraph (E) of paragraph (1).

(E) Any instrument of indebtedness, enrollment agreement, or contract for educational services is unenforceable pursuant to Section 94869. The court shall order the institution to mail a notice to all students who were enrolled while the school was in, stating that instruments of indebtedness, enrollment agreements, and contracts for educational services are not enforceable. If the institution fails to provide adequate proof to the court and to the board that it has mailed this notice within 30 days of the court's order, the board shall mail the notice to the students and the court shall order the institution to pay the board's costs of generating and mailing the notices, in no case less than five thousand dollars (\$5,000).

(3) Any violation of this chapter shall constitute an unfair business practice within the meaning of Section 17200 of the Business and Professions Code.

1 (4) A certification, issued by the board, that the institution has
2 not applied for approval to operate, and has not been approved to
3 operate as required by Article 8 (commencing with Section 94950),
4 shall establish a conclusive presumption that the institution has
5 violated this subdivision.

6 (5) All fines and other monetary amounts that an institution is
7 ordered to pay pursuant to this subdivision may be collected from
8 the institution itself and from the individuals who own the
9 institution, whether or not the institution is organized as a
10 corporation.

11 (c) Notwithstanding any provision of the contract or agreement,
12 a student may bring an action for a violation of this article or for
13 an institution's failure to perform its legal obligations and, upon
14 prevailing thereon, is entitled, *to an extent consistent with Chapter*
15 *5 (commencing with Section 17200) of Part 2 of, and Chapter 1*
16 *(commencing with Section 17500) of Part 3 of Division 7 of the*
17 *Business and Professions Code*, to the recovery of damages,
18 equitable relief, or any other relief authorized by this article, and
19 reasonable attorney's fees and costs.

20 (d) If a court finds that a violation was willfully committed or
21 that the institution failed to refund all consideration as required by
22 subdivision (b) on the student's written demand, the court, in
23 addition to the relief authorized under subdivision (b), shall award,
24 *to an extent consistent with Chapter 5 (commencing with Section*
25 *17200) of Part 2 of, and Chapter 1 (commencing with Section*
26 *17500) of Part 3 of, Division 7 of the Business and Professions*
27 *Code*, a civil penalty of up to two times the amount of the damages
28 sustained by the student.

29 (e) The remedies provided in this article supplement, but do not
30 supplant, the remedies provided under any other provision of law.

31 (f) An action brought under this section shall be commenced
32 within three years of the discovery of the facts constituting grounds
33 for commencing the action.

34 (g) Any provision in any agreement that purports to require a
35 student to invoke any grievance dispute procedure established by
36 the institution before enforcing any right or remedy is void and
37 unenforceable.

38 (h) A student may assign his or her cause of action for a
39 violation of this article to the board, or to any state or federal

1 agency that guaranteed or reinsured a loan for the student or that
2 provided any grant or other financial aid.

3 (i) This section applies to any action pending on ~~the January 1,~~
4 ~~2008 January 1, 2008, and any action to which subdivision (e) of~~
5 *Section 95070 is applicable.*

6 (j) This section supplements, but does not supplant, the authority
7 granted the Division of Labor Standards Enforcement under
8 Chapter 4 (commencing with Section 79) of Division 1 of the
9 Labor Code to the extent that placement activities of trade schools
10 are subject to regulation by the division under the Labor Code.

11 95086. (a) No note, other instrument of indebtedness, or
12 contract relating to payment for educational services shall be
13 enforceable by any institution within or outside this state governed
14 by this chapter unless at the time of execution of that note, other
15 instrument of indebtedness, or contract, the institution has a valid
16 approval to operate pursuant to this chapter.

17 (b) No note, other instrument of indebtedness, or contract
18 relating to payment for educational services shall be enforceable
19 by any institution within or outside this state governed by this
20 chapter unless the representative, who enrolled persons to whom
21 educational services were to be rendered or to whom degrees or
22 diplomas were to be granted pursuant to this chapter, held a valid
23 permit at the time of execution of the note, other instrument of
24 indebtedness, or contract.

25 95086.3. *A person claiming damage or loss as a result of an*
26 *act or practice by an institution, its employee or representative,*
27 *or any combination thereof, that is a violation of this chapter or*
28 *of the regulations adopted pursuant to this chapter, may file with*
29 *the board a complaint against that institution. The complaint shall*
30 *set forth the alleged violation, and shall contain any other*
31 *information as may be required by the board.*

32 95086.5. (a) *A complaint received by the board pertaining to*
33 *a regionally accredited institution shall be forwarded to the*
34 *accrediting association. The board shall notify the complainant*
35 *that the complaint has been forwarded and that the board will also*
36 *investigate the complaint. If the institution is regionally accredited,*
37 *but not subject to this chapter, an action by the board relating to*
38 *a complaint against these institutions shall be limited to the*
39 *transmittal of this information to the accrediting association and*
40 *notification to the complainant.*

1 (b) A complaint received by the board pertaining to an
2 institution accredited by a federally recognized accrediting agency
3 shall be forwarded to the accrediting agency that accredited that
4 institution. The board shall notify the complainant that the
5 complaint has been forwarded. The board may also pursue action
6 against that institution for any violation of this chapter.

7 (c) A complaint received by the board pertaining to an institution
8 or program that is accredited by an accrediting body that is not
9 a federal recognized accrediting agency shall be referred to the
10 accrediting body, in addition to whatever other action the board
11 may take.

12 95086.7. (a) If a licensee commits an act constituting grounds
13 for discipline, the board may do any or all of the following:

14 (1) Require the licensee to implement a corrective action plan
15 to correct the violation.

16 (2) Revoke or suspend the license.

17 (3) Place the license on probation.

18 (4) Issue an administrative citation with an administrative fine,
19 order of abatement, or both, pursuant to Section 95087.5 of this
20 code or Section 125.9, 146, 147, or 148 of the Business and
21 Professions Code. A citation shall be in writing and shall describe
22 the nature of the violation and the specific provision of law
23 determined to have been violated. A citation may contain an order
24 of abatement, an assessment of an administrative fine, or both.
25 The order of abatement may include, but is not necessarily limited
26 to, any of the following provisions:

27 (A) An order to cease operating without a license.

28 (B) An order prohibiting the enrollment of new students.

29 (C) An order to cease entering into new agreements for one or
30 more courses of instruction.

31 (D) An order to cease offering a class or program. An order
32 under this subparagraph may permit the licensee to complete the
33 class or course of instruction only for those students enrolled, or
34 may order the licensee to immediately cease instruction and
35 provide a refund of tuition and all other charges to students.

36 (E) An order requiring the posting of a bond.

37 (F) Other remedial measures intended to address the acts
38 constituting grounds for discipline.

39 (5) Order reimbursement of the costs of an investigation and
40 any enforcement action taken in accordance with Section 125.3

1 of the Business and Professions Code. A licensee may not be
2 required to pay the same costs and expenses to more than one
3 investigating entity.

4 (6) Notify a telephone company to disconnect the licensee's
5 telephone as authorized by Section 149 of the Business and
6 Professions Code.

7 (b) Any enforcement proceeding may be referred to mediation
8 or nonbinding arbitration with the consent of both the board and
9 the licensee.

10 95087. For purposes of this chapter, grounds for discipline
11 include a violation of this chapter, the regulations adopted
12 pursuant to it, or any other conduct substantially related to the
13 qualifications, responsibilities, and duties of the licensee. That
14 conduct includes, but is not necessarily limited to, all of the
15 following:

16 (a) Furnishing false, misleading, or incomplete information to
17 the board, or the failure to furnish information requested by the
18 board or required by this chapter.

19 (b) Committing a violation of this chapter while the person is,
20 or was, serving as an owner, person in control, director, or officer
21 of an institution or licensee.

22 (c) A signatory to an application for licensure was responsible
23 for the closure of an institution or licensee in which there were
24 unpaid liabilities to a state or federal government, or
25 uncompensated pecuniary losses suffered by students without
26 restitution.

27 (d) An applicant, owner, or person in control has been found
28 previously in any judicial or administrative proceeding to have
29 violated this chapter or admitted to having violated this chapter.

30 (e) Failing to maintain the minimum educational standards
31 prescribed by this chapter, or to maintain standards that are the
32 same as, or substantially equivalent to, those represented in the
33 institution or licensee's applications and advertising.

34 (f) Presenting to prospective students information that is false
35 or misleading relating to an institution, to employment
36 opportunities, or to enrollment opportunities in institutions of
37 higher learning, after entering into or completing courses offered
38 by the institution.

39 (g) Failing to maintain financial resources as required by this
40 chapter.

1 (h) Failing to provide refunds to students timely and accurately.

2 (i) Paying a commission or other consideration to a person for
3 an act or service in violation of this chapter.

4 (j) Attempting to confer a degree, diploma, or certificate to a
5 student in violation of this chapter.

6 (k) Misrepresenting to a student or prospective student that the
7 student is qualified, upon completion of a course, for admission
8 to a professional examination under a state occupational licensing
9 provision.

10 (l) Failing to correct a deficiency after notice by the board.

11 (m) Conducting business or instructional services at a location
12 not approved by the board.

13 (n) Failing to comply with a provision of law or regulation
14 governing sanitary conditions as specified in Division 2
15 (commencing with Section 500) of, and Division 3 (commencing
16 with Section 5000) of, the Business and Professions Code.

17 (o) Failing to pay any fee assessment, costs or penalty duly
18 required by this chapter.

19 (p) Unlawfully obtaining, maintaining, or disbursing state or
20 federal loan or grant funds. This subdivision applies to an
21 institution, licensee or an owner, person in control, director, or
22 officer of the institution or licensee.

23 (q) Unlawfully acquiring, using, expending, or failing to refund
24 state or federal financial aid funds. This subdivision applies to an
25 institution or licensee, or to an owner, person in control, director,
26 or officer of the institution or licensee.

27 95087.3. (a) The board may issue an order of correction to a
28 licensee directing the licensee to comply with this chapter or
29 regulations adopted pursuant to this chapter.

30 (b) The order of correction shall be in writing, and shall
31 describe in detail the nature and facts of the violation, including
32 a reference to the statute or regulations violated.

33 (c) The order of correction shall inform the licensee that within
34 30 days of service of the order of correction, the licensee may do
35 either of the following:

36 (1) Submit a written request for an office conference with the
37 executive director to contest the order of correction.

38 (A) Upon a timely request, the board shall hold an office
39 conference with the licensee or the licensee's legal counsel or
40 authorized representative. Unless so authorized by the board, no

1 *individual other than the licensee's legal counsel or authorized*
2 *representative may accompany the licensee to the office conference.*

3 *(B) Prior to or at the office conference, the licensee may submit*
4 *to the board chief declarations and documents pertinent to the*
5 *subject matter of the order of correction.*

6 *(C) The office conference is intended to be an informal*
7 *proceeding, and is not subject to the Administrative Procedure*
8 *Act (Chapter 3.5 (commencing with Section 11340), Chapter 4*
9 *(commencing with Section 11370), Chapter 4.5 (commencing with*
10 *Section 11400), and Chapter 5 (commencing with Section 11500),*
11 *of Part 1 of Division 3 of Title 2 of the Government Code).*

12 *(D) The board may affirm, modify, or withdraw the order of*
13 *correction. Within 14 calendar days from the date of the office*
14 *conference, an employee or agent of the board shall personally*
15 *serve, or send by certified mail to the licensee's address of record*
16 *with the board, a copy of a written decision. This decision shall*
17 *be deemed the final administrative decision concerning the order*
18 *of correction.*

19 *(E) Judicial review of the decision may be had by filing a*
20 *petition for a writ of mandate in accordance with Section 1094.5*
21 *of the Code of Civil Procedure within 30 days of the date the*
22 *decision was personally served or sent by certified mail. The*
23 *judicial review shall extend to the question of whether or not there*
24 *was a prejudicial abuse of discretion in the issuance of the order*
25 *of correction.*

26 *(2) Comply with the order of correction and submit a written*
27 *corrective action plan to the board documenting compliance. If*
28 *an office conference is not requested pursuant to this section,*
29 *compliance with the order of correction shall not constitute an*
30 *admission of the violation noted in the order of correction.*

31 *(d) The order of correction shall be served upon the licensee*
32 *personally or by certified mail at the licensee's address of record*
33 *with the board. If the licensee is served by certified mail, service*
34 *shall be effective upon deposit in the United States mail.*

35 *(e) The licensee shall maintain, and have readily available on*
36 *the licensee's premises, a copy of the order of correction and*
37 *corrective action plan for at least three years after the date of*
38 *issuance of the order of correction.*

1 (f) *Nothing in this section shall be construed to limit the board's*
2 *authority or ability to take other enforcement action authorized*
3 *by this chapter.*

4 (g) *Unless a writ of mandate is filed, a citation issued, or a*
5 *disciplinary proceeding instituted, an order of correction shall*
6 *not be considered a public record, and shall not be disclosed*
7 *pursuant to a request under the California Public Records Act*
8 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*
9 *Title 1 of the Government Code).*

10 95087.5. (a) *An administrative fine assessed with a citation*
11 *may not exceed five thousand dollars (\$5,000) for each violation.*
12 *The board shall base its assessment of the administrative fine on*
13 *the nature and seriousness of the violation, the persistence of the*
14 *violation, the good faith of the institution or licensee, the history*
15 *of previous violations, and the extent to which the violation*
16 *undermined the purposes of this chapter.*

17 (b) *The citation shall inform the institution or licensee of a right*
18 *to request a hearing pursuant to this chapter, in writing, within*
19 *15 days of the date that the citation was issued. If a hearing is not*
20 *requested, payment of the administrative fine shall not constitute*
21 *an admission of the violation charged. If a hearing is requested,*
22 *the board shall provide a hearing pursuant to this article. Payment*
23 *of the administrative fine is due 15 days after the citation was*
24 *issued if a hearing is not requested, or when a final order is entered*
25 *if a hearing is requested. The board may enforce the administrative*
26 *fine as if it were a money judgment pursuant to Title 9*
27 *(commencing with Section 680.10) of Part 2 of the Code of Civil*
28 *Procedure.*

29 (c) *The citation shall also inform the licensee of its right to*
30 *submit a written request for an office conference with the executive*
31 *director to contest the citation.*

32 (1) *Upon a timely request, the board shall hold an office*
33 *conference with the licensee or the licensee's legal counsel or*
34 *authorized representative. Unless so authorized by the board, no*
35 *individual other than the licensee's legal counsel or authorized*
36 *representative may accompany the licensee to the office conference.*

37 (2) *Prior to, or at, the office conference, the licensee may submit*
38 *to the executive director declarations and documents pertinent to*
39 *the subject matter of the order of correction.*

1 (3) *The office conference is intended to be an informal*
2 *proceeding, and is not subject to the Administrative Procedure*
3 *Act (Chapter 3.5 (commencing with Section 11340), Chapter 4*
4 *(commencing with Section 11370), Chapter 4.5 (commencing with*
5 *Section 11400), and Chapter 5 (commencing with Section 11500)*
6 *of Part 1 of Division 3 of Title 2 of the Government Code).*

7 (4) *The board may affirm, modify, or withdraw the order of*
8 *correction. Within 14 calendar days from the date of the office*
9 *conference, an employee or agent of the board shall personally*
10 *serve, or send by certified mail to the licensee's address of record*
11 *with the board, a copy of the written decision. This decision shall*
12 *be deemed the final administrative decision concerning the order*
13 *of correction.*

14 (d) *Failure to pay a fine within 30 days of the date of assessment,*
15 *unless the citation is being appealed, may result in disciplinary*
16 *action taken by the board and the full amount of the assessed fine*
17 *shall be added to the fee for renewal of the license. A license shall*
18 *not be renewed without payment of the renewal fee and fine.*

19 (e) *All administrative fines shall be deposited in the Private*
20 *Postsecondary and Vocational Education Administration Fund.*

21 95087.7. (a) *If the board places a licensee on probation, it*
22 *shall articulate the terms and conditions of the probation. The*
23 *terms and conditions of probation may include the required*
24 *submission of periodic reports and documents, and unannounced*
25 *inspections by board representatives to determine compliance with*
26 *the terms of probation. The onsite inspections may include an*
27 *inspection of the licensee's facilities and records, interviews of*
28 *administrators, faculty, and students, and observation of class*
29 *instruction.*

30 (b) *The licensee shall reimburse the board for all reasonable*
31 *costs and expenses incurred in connection with this subdivision.*
32 *Payment of the reimbursement shall be a condition of probation.*

33 (c) *If the licensee fails to comply with the terms of probation,*
34 *the board may suspend or revoke the license or may take other*
35 *action pursuant to this article.*

36 (d) *In addition to any other terms of probation, the board may*
37 *assess a penalty of up to ten thousand dollars (\$10,000) as part*
38 *of a probation order for violations of this chapter. In determining*
39 *the amount of that penalty, the board shall consider the number,*
40 *nature and seriousness of the violations, the persistence of the*

1 violations, the degree of the licensee's good faith or culpability,
2 the history of the licensee's previous violations, the licensee's
3 ability to pay, and the extent to which the violation undermined
4 the purposes of this chapter. If the licensee fails to pay a penalty
5 within the time prescribed by the board, in addition to any other
6 remedies, the fine shall be added to the renewal fee as provided
7 for in subdivision (d) of Section 95087.5.

8 95088. (a) If the board determines that immediate action is
9 necessary to protect students or prevent the loss of public funds,
10 tuition, or other money paid by students, the board may institute
11 an emergency action to suspend the approval of an institution to
12 operate, or the approval to operate a branch or satellite campus,
13 for not more than 30 days unless the board initiates a proceeding
14 to suspend or revoke the approval to operate within that period.

15 (b) (1) The board shall provide notice of an emergency action
16 to the institution by either (A) certified mail, in which case the
17 effective date of the emergency action shall be not less than 10
18 working days after mailing, or (B) personal service, in which case
19 the effective date of the emergency action shall be not less than
20 five working days after service.

21 (2) The notice shall specify all of the following:

22 (A) The violations upon which the emergency action is based.

23 (B) The nature and grounds of the emergency action, including
24 whether the action applies to the continuation of instruction to
25 enrolled students or to the enrollment of new students.

26 (C) The effective date of the action.

27 (D) The institution's right to show cause that the emergency
28 action is unwarranted by submitting to the board, at least two days
29 before the effective date of the emergency action, declarations,
30 documentary evidence, and written arguments demonstrating that
31 the violations did not occur or that immediate action is not
32 required.

33 (E) The right of the institution to request, in writing, within 30
34 days of the service of the notice, a hearing.

35 (c) At any time, the board may (1) continue the effective date
36 of an emergency action, or (2) terminate an emergency action, if
37 the board concludes that the institution has shown cause that the
38 emergency action is unwarranted or that the grounds for instituting
39 the emergency action no longer remain. The board shall provide

1 *to the institution written notice of a continuance or termination of*
2 *an emergency action.*

3 *(d) (1) If an institution does not take the opportunity to show*
4 *cause why an emergency action is unwarranted, the emergency*
5 *action shall become effective on the date specified in the notice or*
6 *notice of continuance.*

7 *(2) If an institution takes the opportunity to show cause why an*
8 *emergency action is unwarranted and if the board decides, after*
9 *consideration of the declarations, documentary evidence, and*
10 *written arguments submitted by the institution, that the emergency*
11 *action should become effective, the emergency action shall be*
12 *effective on the date specified in the notice or notice of continuance.*
13 *The board shall notify the institution of the decision at least one*
14 *day before the effective date, and the institution may thereafter*
15 *seek judicial relief upon notice to the board and the Attorney*
16 *General.*

17 *(e) (1) If an institution requests a hearing to contest an*
18 *emergency action within the 30-day period specified in subdivision*
19 *(b), the board shall set a date for a hearing within 20 days after*
20 *receipt of the request.*

21 *(2) If an institution does not request a hearing to contest an*
22 *emergency action within the 30-day period specified in subdivision*
23 *(b), or if the board concludes after a hearing requested by the*
24 *institution that grounds exist for the suspension or revocation of*
25 *the institution's approval to operate or approval to operate a*
26 *branch or satellite campus, the board may extend the action or*
27 *take another disciplinary action, as the board deems appropriate.*

28 *(f) After an emergency action has been served, and while it is*
29 *effective, the board may take any other appropriate action with*
30 *respect to the institution.*

31 *(g) This section supplements, but does not supplant, the authority*
32 *of the board to seek judicial relief, including a temporary*
33 *restraining order and injunction, to redress any violation of this*
34 *chapter.*

35 *95088.3. (a) An institution the license of which has been*
36 *revoked or suspended, or that has been placed on probation, may*
37 *petition the board for reinstatement or modification of penalty,*
38 *including modification or termination of probation, after not less*
39 *than the following minimum periods have elapsed from the effective*
40 *date of the decision ordering disciplinary action:*

1 (1) *At least three years for reinstatement of a revoked license.*

2 (2) *At least two years for early termination of probation of three*
3 *years or more.*

4 (3) *At least one year for the modification of a condition or for*
5 *the reinstatement of a license revoked for termination of probation*
6 *of less than three years.*

7 (b) *The petition shall state any facts required by the board. The*
8 *petition shall be accompanied by a reinstatement processing fee*
9 *of ____ dollars (\$____).*

10 (c) *In considering reinstatement or the modification of a penalty,*
11 *the board may consider factors including, but not necessarily*
12 *limited to, all of the following:*

13 (1) *The petitioner's activities since the disciplinary action was*
14 *taken.*

15 (2) *The offense for which the petitioner was disciplined.*

16 (3) *The petitioner's activities during the time the license was*
17 *in good standing.*

18 (4) *The petitioner's documented rehabilitative efforts, including*
19 *any repayment or restitution made by that petitioner.*

20 (5) *The petitioner's business reputation in the community.*

21 (d) *No petition under this section shall be considered while the*
22 *petitioner is under sentence for any criminal offense, including*
23 *any period during which the petitioner is on court-imposed*
24 *probation or parole. No petition shall be considered while there*
25 *is an accusation or petition to revoke probation pending against*
26 *the person. The board may deny, without a hearing or argument,*
27 *any petition filed pursuant to this section within a period of two*
28 *years from the effective date of the prior decision following a*
29 *hearing under this section.*

30 (e) *The board may investigate any and all matters pertaining*
31 *to the petition and documents submitted with or in connection with*
32 *the application.*

33 95088.5. (a) *The board may bring an action for equitable*
34 *relief for any violation of this chapter in addition to, or instead of,*
35 *any other remedy or procedure. The equitable relief may include*
36 *restitution, a temporary restraining order, the appointment of a*
37 *receiver, and a preliminary or permanent injunction. The action*
38 *may be brought in the county in which the defendant resides or in*
39 *which any violation has occurred or may occur.*

1 ***(b) In addition to any other relief granted pursuant to***
2 ***subdivision (a), a court may suspend or revoke the party's license***
3 ***for failure to comply with this chapter.***

4 95088.7. ***(a) An institution or licensee that willfully violates***
5 ***Article 5.5 (commencing with Section 94830), Article 6***
6 ***(commencing with Section 94850), or this article is guilty of a***
7 ***crime and shall be subject to separate punishment for each***
8 ***violation by either of the following:***

9 ***(1) Imprisonment in a county jail not to exceed one year, by a***
10 ***fine not to exceed ten thousand dollars (\$10,000), or by both that***
11 ***imprisonment and fine.***

12 ***(2) Imprisonment in state prison, by a fine not to exceed fifty***
13 ***thousand dollars (\$50,000), or by both that imprisonment and fine.***

14 ***(b) Notwithstanding any other law, any prosecution under this***
15 ***section shall be commenced within three years of the discovery of***
16 ***the facts constituting grounds for commencing the prosecution.***

17 ***(c) In addition to any other fines or penalties imposed pursuant***
18 ***to this section, an institution or licensee found guilty of a crime***
19 ***as described in subdivision (a) shall be ordered to pay the Attorney***
20 ***General, a district attorney, or a city attorney, as appropriate, all***
21 ***of the costs and expenses incurred by that office in connection with***
22 ***an investigation incident to that prosecution. An institution or***
23 ***licensee shall not be required to pay the same costs and expenses***
24 ***to more than one investigating agency.***

25 95089. ***The Attorney General, a district attorney, or a city***
26 ***attorney may make investigations as may be necessary to carry***
27 ***out this chapter, including investigations of complaints. The board***
28 ***may jointly bring actions as necessary to enforce this chapter,***
29 ***including civil actions for injunctive relief.***

30 95089.3. ***(a) If an institution or licensee violates this chapter***
31 ***or its related regulations in connection with an agreement for a***
32 ***course of instruction, that agreement shall be unenforceable, and***
33 ***the institution shall refund all consideration paid by or on behalf***
34 ***of the student.***

35 ***(b) Notwithstanding any provision that may be included in an***
36 ***agreement, a student may bring an action for a violation of this***
37 ***chapter and its related regulations or an institution's failure to***
38 ***perform its other legal obligations and, upon prevailing, shall be***
39 ***entitled to the recovery of damages, equitable relief, any other***

1 relief authorized by this article, and reasonable attorney's fees
2 and costs.

3 (c) If a court finds that a violation of this chapter was willfully
4 committed or that an institution or licensee failed to refund all
5 consideration as required by subdivision (a) on the student's
6 written demand, the court, in addition to the relief awarded under
7 subdivision (b), may award a civil penalty of up to two times the
8 amount of the damages sustained by the student.

9 (d) If a court finds that an institution or licensee has violated
10 this chapter, as alleged, all of the following shall occur:

11 (1) The court may order the institution or licensee to cease all
12 operations and to comply with all procedures set forth in this
13 chapter pertaining to the closure of institutions.

14 (2) The court may order the institution or licensee to pay all
15 students who enrolled while the school was in violation of the
16 applicable section, a refund of all tuition and fees paid to the
17 institution and a statutory penalty of one thousand dollars (\$1,000).

18 (3) The court may order the institution or licensee to pay the
19 prevailing party's attorney's fees and costs.

20 (4) If an instrument of indebtedness, enrollment agreement, or
21 contract for educational services that is unenforceable pursuant
22 to this chapter exists, the court may order the institution or licensee
23 to mail a notice to all students who were enrolled while the school
24 was in violation of this chapter, stating that instruments of
25 indebtedness, enrollment agreements, and contracts for educational
26 services are not enforceable. If the institution fails to provide
27 adequate proof to the court and to the board that it has mailed
28 this notice within 30 days of a court's order to do so, the board
29 shall mail the notice to the students and the court shall order the
30 institution to pay the board's costs of generating and mailing the
31 notices, in no case less than five thousand dollars (\$5,000).

32 (e) All fines and other monetary amounts that an institution or
33 licensee is ordered to pay pursuant to this section may be collected
34 from the entity itself and from the person who owns the entity,
35 whether or not the entity is organized as a corporation.

36 (f) An action brought under this section shall be commenced
37 within three years of discovery of the facts constituting grounds
38 for commencing the action.

39 95089.5. A person entitled to bring an action for the recovery
40 of damages or other relief shall not be required to file a complaint

pursuant to this article, or to pursue or exhaust any administrative process or remedy before bringing the action.

95089.7. A student may assign his or her cause of action for a violation of this article to the board, or to any state or federal agency that guaranteed or reinsured a loan for the student or that provided any grant or other financial aid.

95090. The remedies provided in this article supplement, but do not supplant, the remedies provided under any other provision of law.

Article 13. Student Tuition Recovery Fund

95100. (a) On and after January 1, 2008, the Student Tuition Recovery Fund, shall be administered by the Board of Fund shall be administered by the Board for Private Postsecondary Education. All assessments collected pursuant to Section 95102 shall be credited to the fund, along with any interest on the moneys, for the administration of this article. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are continuously appropriated to the board without regard to fiscal years for the purposes of this chapter. For institutions approved under any provision of this chapter, for the purpose of relieving or mitigating pecuniary losses suffered by any California resident who is a student of an approved institution and who meets either of the following conditions:

(1) (A) The student was enrolled in an institution, prepaid tuition, and suffered loss as a result of any of the following:

(i) The closure of the institution.

(ii) The institution's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purposes, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the institution.

(iii) The institution's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the institution before closure in excess of tuition and other costs.

(iv) The institution's breach or anticipatory breach of the agreement for the course of instruction.

(v) A decline in the quality or value of the course of instruction within the 30-day period before the closure of the institution or,

1 if the decline began before that period, the period of decline
2 determined by the board.

3 (vi) The commission of a fraud by the institution during the
4 solicitation or enrollment of, or during the program participation
5 of, the student.

6 (B) For the purposes of this section, “closure” includes closure
7 of a branch or satellite campus, the termination of either the
8 correspondence or residence portion of a home study or
9 correspondence course, and the termination of a course of
10 instruction for some or all of the students enrolled in the course
11 before the time these students were originally scheduled to
12 complete it, or before a student who has been continuously enrolled
13 in a course of instruction has been permitted to complete all the
14 educational services and classes that comprise the course.

15 (2) The student obtained a judgment against the institution for
16 any violation of this chapter, and the student certifies that the
17 judgment cannot be collected after diligent collection efforts. A
18 court judgment obtained under this paragraph shall be paid in
19 accordance with paragraph (1) of subdivision (f), unless the
20 judgment indicates that a lesser amount is due.

21 (b) Payments from the fund to any student shall be subject to
22 any regulations and conditions prescribed by the board.

23 (c) (1) (A) The institution shall provide to the board, at the
24 time of the institution’s closure, the names and addresses of persons
25 who were students of an institution within 60 days before its
26 closure, and shall notify these students, within 30 days of the
27 institution’s closure, of their rights under the fund and how to apply
28 for payment. If the institution fails to comply with this subdivision,
29 the board shall attempt to obtain the names and addresses of these
30 students and shall notify them, within 90 days of the institution’s
31 closure, of their rights under the fund and how to apply for
32 payment. This notice shall include the explanation and the claim
33 form described in subparagraph (B).

34 (B) The board shall develop a form in English and Spanish fully
35 explaining a student’s rights, that shall be used by the institution
36 or the board to comply with the requirements of subparagraph (A).
37 The form shall include, or be accompanied by, a claim application
38 and an explanation of how to complete the application.

39 (2) (A) If an institution fails to comply with paragraph (1), the
40 board shall order the institution, or any person responsible for the

1 failure to provide notice as required by paragraph (1), to reimburse
2 the board for all reasonable costs and expenses incurred in notifying
3 students as required in paragraph (1). In addition, the board may
4 impose a penalty of up to five thousand dollars (\$5,000) against
5 the institution and any person found responsible for the failure to
6 provide notice. The amount of the penalty shall be based on the
7 degree of culpability and the ability to pay. Any order may impose
8 joint and several liabilities. Before any order is made pursuant to
9 this paragraph, the board shall provide written notice to the
10 institution and any person from whom the board seeks recovery
11 of the board's claim and of the right to request a hearing within
12 30 days of the service of the notice.

13 (B) If a hearing is not requested within 30 days of service of
14 the notice, the board may order payment in the amount of the claim.
15 If a hearing is requested, Chapter 5 (commencing with Section
16 11500) of Part 1 of Division 3 of Title 2 of the Government Code
17 shall apply, and the board shall have all of the powers therein
18 prescribed. Within 30 days after the effective date of the issuance
19 of an order, the board may enforce the order in the same manner
20 as if it were a money judgment pursuant to Title 9 (commencing
21 with Section 680.010) of Part 2 of the Code of Civil Procedure.
22 All penalties and reimbursements paid pursuant to this section
23 shall be deposited in the ~~Postsecondary~~ *Private Postsecondary*
24 *and Vocational* Education Administration Fund established
25 pursuant to Article 5 (commencing with Section 94820).

26 (d) (1) Students entitled to payment as provided in paragraph
27 (1) of subdivision (a) shall file with the board a verified application
28 indicating each of the following:

29 (A) The student's name, address, telephone number, and social
30 security number.

31 (B) If any portion of the tuition was paid from the proceeds of
32 a loan, the name of the lender, and any state or federal agency that
33 guaranteed or reinsured the loan.

34 (C) The amount of the paid tuition, the amount and description
35 of the student's loss, and the amount of the student's claim.

36 (D) The date the student started and ceased attending the
37 institution.

38 (E) A description of the reasons the student ceased attending
39 the institution.

(F) If the student ceased attending because of a breach or anticipatory breach or because of the decline in the quality or value of the course of instruction as described in clause (v) of subparagraph (A) of paragraph (1) of subdivision (a), a statement describing in detail the nature of the loss incurred. The application shall be filed within one year from the date of the notice, as described in paragraph (1) of subdivision (c). If no notice is received by the student from the board soon after the school closes, the application shall be filed within four years of the institution's closure, or within two years of the student's or former student's receipt of an explanation of his or her rights and a claim form, whichever of those claim periods expires later. The two-year claim period shall begin on the day the student or former student receives from the board both an explanation regarding how to file a claim and a claim application, as provided in subparagraph (B) of paragraph (1) of subdivision (c), or on the day the second of the two documents is received, if they are received on different dates. If the claimant's primary language is Spanish, or a language other than English, the notice and explanation shall be sent in Spanish or the primary language of the student.

(G) Nothing in this subdivision shall preclude the filing of a single, unified application that aggregates the claims of similarly situated students.

(2) (A) Students entitled to payment as provided in paragraph (2) of subdivision (a) shall file with the board a verified application indicating the student's name, address, telephone number, and social security number, the amount of the judgment obtained against the institution, a statement that the judgment cannot be collected, and a description of the efforts attempted to enforce the judgment. A copy of the judgment and any other documents indicating the student's efforts made to enforce the judgment shall accompany the application.

(B) The application shall be filed within two years after the date upon which the judgment became final.

(3) The board may require additional information designed to facilitate payment to entitled students. The board shall waive the requirement that a student provide all of the information required by this subdivision if the board has the information or the information is not reasonably necessary for the resolution of a student's claim.

1 (4) Nothing in this subdivision shall be construed to preclude
2 the filing of a single, unified application that aggregates the claims
3 of similarly situated students.

4 (e) Within 60 days of the board's receipt of a completed
5 application for payment, the board shall pay the claim from the
6 Student Tuition Recovery Fund or deny the claim. The board, for
7 good cause, may extend the time period for up to an additional 90
8 days to investigate the accuracy of the claim.

9 (f) (1) If the board pays the claim, the amount of the payment
10 shall be (A) the greater of either (i) the total guaranteed student
11 loan debt incurred by the student in connection with attending the
12 institution, or (ii) the total of the student's tuition and the cost of
13 equipment and materials related to the course of instruction, less
14 (B) the amount of any refund, reimbursement, indemnification,
15 restitution, compensatory damages, settlement, debt forgiveness,
16 discharge, cancellation, or compromise, or any other benefit
17 received by, or on behalf of, the student before the board's payment
18 of the claim in connection with the student loan debt or cost of
19 tuition, equipment, and materials. The payment also shall include
20 the amount the institution collected and failed to pay to third parties
21 on behalf of the student for license fees or any other purpose.
22 However, if the claim is based solely on the circumstances
23 described in subparagraph (B) or (C) of paragraph (1) of
24 subdivision (a), the amount of the payment shall be the amount of
25 the loss suffered by the student. In addition to the amount
26 determined under this paragraph, the amount of the payment shall
27 include all interest and collection costs on all student loan debt
28 incurred by the student in connection with attending the institution.

29 (2) The board may reduce the total amount specified in
30 paragraph (1) by the value of the benefit, if any, of the education
31 obtained by the student before the closure of the institution. If the
32 board makes any reduction pursuant to this paragraph, the board
33 shall notify the claimant in writing, at the time the claim is paid,
34 on the basis of its decision and provide a brief explanation of the
35 reasons upon which the board relied in computing the amount of
36 the reduction.

37 (3) No reduction shall be made to the amount specified in
38 paragraph (1) if (A) the student did not receive adequate instruction
39 to obtain the training, skills, or experience, or employment to which
40 the instruction was represented to lead, (B) credit for the instruction

1 obtained by the student is not generally transferable to other
2 institutions approved by the board, or (C) the institution or one of
3 its representatives fraudulently misrepresented to students the
4 likely starting salary or job availability, or both, after training.

5 (4) The amount of the payment determined under this
6 subdivision is not dependent on the amount of the refund to which
7 the student would have been entitled after a voluntary withdrawal.

8 (5) Upon payment of the claim, all of the student's rights against
9 the institution shall be deemed assigned to the board to the extent
10 of the amount of the payment.

11 (g) (1) The board shall negotiate with a lender, holder, guarantee
12 agency, or the United States Department of Education for the full
13 compromise or writeoff of student loan obligations to relieve
14 students of loss and thereby reduce the amount of student claims.

15 (2) The board, with the student's permission, may pay a
16 student's claim directly to the lender, holder, guarantee agency,
17 or the United States Department of Education under a federally
18 guaranteed student loan program only if the payment of the claim
19 fully satisfies all of the student's loan obligations related to
20 attendance at the institution for which the claim was filed.

21 (3) Notwithstanding subdivision (e), the board may delay the
22 payment of a claim pending the resolution of the board's attempt
23 to obtain a compromise or writeoff of the claimant's student loan
24 obligation. However, the board shall immediately pay the claim
25 if any adverse action that is not stayed is taken against the claimant,
26 including the commencement of a civil or administrative action,
27 tax offset, the enforcement of a judgment, or the denial of any
28 government benefit.

29 (4) The board shall make every reasonable effort to obtain a
30 loan discharge for an eligible student in lieu of reimbursing that
31 student in whole or in part from the fund pursuant to federal student
32 loan laws and regulations.

33 (5) Whenever the board receives from a student a completed
34 application for payment from the Student Tuition Recovery Fund,
35 the board shall, as soon as is practicable, cause to be delivered to
36 that student a written notice specifying, in plain English, the rights
37 of a student under this section.

38 (h) (1) If the board denies the claim, or reduces the amount of
39 the claim pursuant to paragraph (2) of subdivision (f), the board
40 shall notify the student of the denial or reduction and of the

1 student's right to request a hearing within 60 days or any longer
2 period permitted by the board. If a hearing is not requested within
3 60 days or any additional period reasonably requested by the
4 student, the board's decision shall be final. If a hearing is requested,
5 Chapter 5 (commencing with Section 11500) of Part 1 of Division
6 3 of Title 2 of the Government Code shall apply.

7 (2) It is the intent of the Legislature that, when a student is
8 enrolled in an institution that closes before the completion of the
9 student's program, the student shall have the option for a teach-out
10 at another institution approved by the board. The board shall seek
11 to promote teach-out opportunities wherever possible and shall
12 inform the student of his or her rights, including payment from the
13 fund, transfer opportunities, and available teach-out opportunities,
14 if any.

15 (i) This section applies to all claims filed or pending under
16 former Chapter 7 (commencing with Section 94700) after January
17 1, 1990.

18 (j) Once the board determines that a student claim is eligible
19 for payment under this section and that the use of the Student
20 Tuition Recovery Fund, in whole or in part, is appropriate to satisfy
21 the eligible claim, the board shall document its negotiations with
22 the relevant lender, holder or guarantee agency, the United States
23 Department of Education, or the applicable state agency. The board
24 shall prepare a written summary of the parties and results of the
25 negotiations, including the amounts offered and accepted, the
26 discounts requested and granted, and any other information that
27 is available to any party that files a request for this information
28 with the board.

29 95101. (a) An institution closing, not seeking renewal to
30 operate, or whose approval to operate is discontinued, before the
31 completion of educational services by all enrolled students, shall
32 have a plan approved by the board that includes specific provisions
33 for the treatment of currently enrolled students in the event of
34 school closure. Closing schools shall communicate to all enrolled
35 students that these provisions exist and are available to them.
36 Closing schools shall provide opportunities for students to complete
37 their educational programs at another institution, or shall provide
38 a full refund and fee refund to students in the event that the board
39 determines that the school has not fulfilled its contractual obligation
40 to them.

(b) The plan required by subdivision (a) shall contain detailed procedures that will be used in the event of closure, including all of the following:

(1) Arrangements made for students to receive continued instruction.

(2) Procedures for making tuition and fee refunds, including the source of these funds, including, but not ~~limited to~~ *necessarily limited to*, bonds, letters of credit, or other sources.

(3) Written descriptions that will be used to inform enrolled students of these plans.

(c) The board-approved plan shall further provide for the retention and disposition of records in the event of closure. Arrangements shall be made for the transference of complete academic and financial aid records to other institutions or agencies in the event of closure, and currently enrolled and former students, including graduates, shall be informed of the location of those records and how they can gain access to them. The institution or agency holding the records shall be directed to inform the board if the records are later moved.

(d) In the event of the closure of an institution or a teach-out, the board shall give priority, for payments from the fund, to a student who needs to transfer to another institution to complete his or her course of study.

95102. (a) (1) The board shall assess each institution, other than an institution that receives all of its students' total charges from third-party payers, for the purpose of compliance with the provisions of this chapter that are related to the Student Tuition Recovery Fund. A third-party payer, for the purposes of this section, means an employer, government program, or other payer that pays a student's total charges directly to the institution when no separate agreement for the repayment of that payment exists between the third-party payer and the student. A student who receives third-party payer benefits for his or her tuition and fees is not eligible for benefits from the Student Tuition Recovery Fund.

(2) (A) The amount assessed each institution shall be calculated only for those students who are California residents and who are eligible to be reimbursed from the fund. It shall be based on the actual amount charged each of these students for total tuition cost, regardless of the portion that is prepaid, and shall be assessed as tuition is paid or loans are funded on behalf of the student, based

1 upon academic term. The amount of the assessment on an
2 institution shall be determined in accordance with paragraphs (3)
3 and (4).

4 (B) Each institution shall collect the amount assessed by the
5 board in the form of a Student Tuition Recovery Fund fee from
6 its new students, and remit these fees to the board during the
7 quarter immediately following the quarter in which the fees were
8 collected from the students, or from loans funded on behalf of the
9 students, except that an institution may waive collection of the
10 Student Tuition Recovery Fund fee and assume the fee as a debt
11 of the institution. The student's subsequent disenrollment at the
12 institution shall not relieve the institution of the obligation to pay
13 the fee to the board, nor be the basis for refund of the fee to the
14 student. An institution shall not charge a fee of any kind for the
15 collection of the Student Tuition Recovery Fund fee. An institution
16 may refuse to enroll a student who has not paid, or made provisions
17 to pay, the appropriate Student Tuition Recovery Fund fee.

18 (3) The amount collected from a new student by an institution
19 shall be calculated on the basis of the course tuition paid over the
20 current calendar year, based upon the assessment rate in effect
21 when the student enrolled at the institution, without regard to the
22 length of time the student's program of instruction lasts. For
23 purposes of annualized payment, a new student enrolled in a course
24 of instruction that is longer than one calendar year in duration shall
25 pay fees for the Student Tuition Recovery Fund based on the
26 amount of tuition collected during the current calendar year.

27 (4) Student Tuition Recovery Fund fees shall be collected from
28 new students at the rate of two dollars and fifty cents (\$2.50) per
29 thousand dollars of tuition charged, rounded to the nearest thousand
30 dollars.

31 (5) The board may levy additional reasonable special
32 assessments on an institution under this section only if these
33 assessments are required to ensure that sufficient funds are
34 available to satisfy the anticipated costs of paying student claims
35 pursuant to this article.

36 (6) (A) The board shall not levy a special assessment unless
37 the balance in the Student Tuition Recovery Fund falls below ____
38 dollars (\$____), as certified by the board.

39 (B) A special assessment is a surcharge, collected by each
40 institution from newly enrolled students, of up to 100 percent of

1 that institution's regular assessment for four consecutive quarters.
2 The affected student shall pay the surcharge simultaneously with
3 his or her regular quarterly payment to the Student Tuition
4 Recovery Fund.

5 (C) The board shall provide at least 90 days' notice of an
6 impending special assessment to each affected institution. This
7 notice shall also be posted on the board's Internet Web site.

8 (D) The board may apply any special assessment payments that
9 it receives from an institution as a credit toward that institution's
10 current or future obligations to the Student Tuition Recovery Fund.

11 (7) The assessments shall be paid into the Student Tuition
12 Recovery Fund and the deposits shall be allocated, except as
13 otherwise provided for in this chapter, solely for the payment of
14 valid claims to students. Unless additional reasonable assessments
15 are required, no assessments shall be levied during any fiscal year
16 if, as of June 30 of the prior fiscal year, the balance in that account
17 of the fund exceeds ____ dollars (\$____). However, irrespective
18 of the balance in the fund, assessments shall be made on any
19 initially approved institution. Notwithstanding Section 13340 of
20 the Government Code, the moneys so deposited in the fund are
21 continuously appropriated to the board for the purpose of paying
22 claims to students pursuant to Section ____.

23 (b) The board may deduct from the fund the reasonable costs
24 of administration of the tuition recovery program authorized by
25 this article. The maximum amount of administrative costs that may
26 be deducted from the fund, in a fiscal year, shall not exceed one
27 hundred thousand dollars (\$100,000) from the degree-granting
28 postsecondary educational institution account plus the interest
29 earned on money in the fund that is credited to the fund. Prior to
30 the board's expenditure of any amount in excess of one hundred
31 thousand dollars (\$100,000) from the fund for administration of
32 the tuition recovery program, the board shall develop a plan
33 itemizing that expenditure. The plan shall be subject to the approval
34 of the Department of Finance.

35 (c) Reasonable costs in addition to those permitted under
36 subdivision (b) may be deducted from the fund for either of the
37 following purposes:

38 (1) To make and maintain copies of student records from
39 institutions that close.

1 (2) To reimburse the board or a third party serving as the
2 custodian of records.

3 (d) In the event of a closure by any approved institution under
4 this chapter, any assessments that have been made against those
5 institutions, but have not been paid into the fund, shall be
6 recovered. Any payments from the fund made to students on behalf
7 of any institution shall be recovered from that institution.

8 (e) In addition to civil remedies, the board may order an
9 institution to pay previously unpaid assessments or to reimburse
10 the board for any payments made from the fund in connection with
11 the institution. Before any order is made pursuant to this section,
12 the board shall provide written notice to the institution and notice
13 of the institution's right to request a hearing within 30 days of the
14 service of the notice. If a hearing is not requested within 30 days
15 of the service of the notice, the board may order payment. If a
16 hearing is requested, Chapter 5 (commencing with Section 11500)
17 of Part 1 of Division 3 of Title 2 of the Government Code shall
18 apply, and the board shall have all powers prescribed in that
19 chapter. Within 30 days after the effective date of the issuance of
20 the order, the board may enforce the order in the same manner as
21 if it were a money judgment pursuant to Title 9 (commencing with
22 Section 680.010) of Part 2 of the Code of Civil Procedure.

23 (f) In addition to any other action that the board may take under
24 this chapter, the board may suspend or revoke an institution's
25 approval to operate or registration because of the institution's
26 failure to pay assessments when due or failure to pay
27 reimbursement for any payments made from the fund within 30
28 days of the board's demand for payment.

29 (g) The moneys deposited in the fund shall be exempt from
30 execution, and shall not be the subject of litigation or liability on
31 the part of creditors of those institutions or students.

32 95102.5. (a) *On or before December 31, 2010, the board shall*
33 *adopt a procedure for the making of online payments to the fund.*

34 (b) *The board shall adopt procedures to ensure that institutions*
35 *shall fully pay the amounts that are due to the fund.*

36 95103. Students enrolling in institutions that are subject to
37 Sections 95101 and 95102 shall disclose in writing, if applicable,
38 the source of any and all guaranteed or insured loans granted for
39 the purposes of paying tuition to that institution. In the event of a
40 closure of any institution, the board shall provide any lending

1 institution that is the source of any guaranteed or insured student
2 loan with the names of students maintaining loans with that lending
3 institution.

4 95104. (a) (1) The governing board or other governing
5 authority of any private postsecondary or vocational educational
6 institution shall adopt rules providing for the withholding of
7 services from students or former students who have been notified,
8 in writing, at the student's or former student's last known address,
9 that he or she is in default on a loan or loans under either of the
10 following loan programs:

11 (A) The Stafford Student Loan program.

12 (B) The Supplemental Loans for Students program.

13 (C) Any program directly or indirectly financed by the California
14 Educational Facilities Authority.

15 (2) "Default," as used in this section, with respect to a loan
16 under the Stafford Student Loan program or Supplemental Loans
17 for Students program means the failure of a borrower to make an
18 installment payment when due, or to meet other terms of the
19 promissory note under circumstances where the guarantee agency
20 finds it reasonable to conclude that the borrower no longer intends
21 to honor the obligation to repay, provided that this failure persists
22 for 180 days for a loan repayable in monthly installments, or 240
23 days for a loan repayable in less frequent installments. "Default,"
24 as used in this section, with respect to a program directly or
25 indirectly financed by the California Educational Facilities
26 Authority, means the failure of a borrower to make an installment
27 payment when due, or to meet other terms of the loan, within that
28 period and under the circumstances determined by the California
29 Educational Facilities Authority with respect to that program.

30 (b) The rules adopted pursuant to subdivision (a) shall *specify*
31 that the services withheld may be provided during a period when
32 the facts are in dispute and when the student or former student
33 demonstrates to either the governing board or other appropriate
34 governing authority of the institution, or the Student Aid
35 Commission and the appropriate entity or its designee, that
36 reasonable progress has been made to repay the loan or that there
37 exists a reasonable justification for the delay as determined by the
38 institution. The rules shall specify the services to be withheld from
39 the student and may include, but are not limited to, the provision
40 of any of the following:

1 (1) Grades.

2 (2) Transcripts.

3 (3) Diplomas.

4 (c) The rules shall not include the withholding of registration
5 privileges.

6 (d) When it has been determined that an individual is in default
7 on a loan or loans under either of the loan programs specified in
8 subdivision (a), the Student Aid Commission shall give notice of
9 the default to all institutions through which that individual acquired
10 the loan or loans.

11 (e) Guarantors, or those who act as their agents or act under
12 their control, who provide information to institutions pursuant to
13 this section, shall defend, indemnify, and hold harmless the
14 governing board or other governing authority of the institutions
15 from action resulting from compliance with this section when the
16 action arises as a result of incorrect, misleading, or untimely
17 information provided to the institution by the guarantors, their
18 agents, or those acting under the control of the guarantors.

19 *95104.5. The Legislative Analyst's Office shall complete a*
20 *study of the first year of the operation of the fund under this*
21 *chapter. This study shall include, but not necessarily be limited*
22 *to, analysis relating to the level of fees, the potential demand for*
23 *payments from the fund, and the advisability of enacting a*
24 *risk-based fee system, a fee system based on whether an institution*
25 *is degree-granting or non-degree-granting, or a cap on the fees*
26 *assessed with respect to a particular institution. To the extent*
27 *feasible, this study shall be based on actuarial principles.*

28 *SEC. 3. (a) It is the intent of the Legislature to provide, through*
29 *the enactment of subdivision (b), for the protection of the interests*
30 *of students and institutions having any matter pending before the*
31 *Bureau for Private Postsecondary and Vocational Education as*
32 *of June 30, 2007.*

33 *(b) Notwithstanding any other provision of law:*

34 *(1) Each matter pending before the Bureau for Private*
35 *Postsecondary and Vocational Education as of the close of business*
36 *on June 30, 2007, shall be deemed to remain pending before the*
37 *board as of February 1, 2008, irrespective of any applicable*
38 *deadlines. With respect to any deadline applicable to a pending*
39 *matter, no time shall be deemed to have elapsed between July 1,*
40 *2007, and January 31, 2008, inclusive. For the purposes of this*

1 paragraph, “matter” includes, but is not necessarily limited to,
2 an appeal, a complaint, an evaluation, a hearing, a Student Tuition
3 Recovery Fund claim, or an investigation.

4 (2) Any institution, program, or course of study that is approved
5 by the bureau as of the close of business on June 30, 2007, shall
6 be deemed to be approved by the board as of February 1, 2008,
7 irrespective of any applicable conditions, deadlines, or additional
8 requirements. With respect to any deadline applicable to the
9 approval, renewal of approval, or conditional approval of an
10 institution, program, or course of study, no time shall be deemed
11 to have elapsed between July 1, 2007, and January 31, 2008,
12 inclusive.

13 SEC. 4. No later than June 30, 2009, the Board for Private
14 Postsecondary and Vocational Education shall implement an
15 information technology system that will provide for, but not
16 necessarily be limited to, all of the following:

17 (a) Online access to statutes that regulate schools and protect
18 students.

19 (b) Online payment, application, notification, and complaint
20 processes.

21 (c) Online access to a list of all institutions approved under the
22 California Private Postsecondary Education Act of 2007, with
23 detailed information regarding the types of programs offered, the
24 approval category, and financial aid participation.

25 (d) Online access to the Students’ Rights and Responsibilities
26 Fact Sheet developed by the board pursuant to Section 94857 of
27 the Education Code.

28 (e) Online access to the status of each institution that is subject
29 to the California Private Postsecondary Education Act of 2007,
30 including, but not necessarily limited to, information regarding
31 all enforcement actions involving that institution.

32 (f) Online access to the status of all applications before the
33 board.

34 (g) Online access to an outreach program designed to give
35 students and institutions as much information as possible about
36 the board and its mission and activities.

37 (h) Online access to an electronic licensing and information
38 system designed to allow users to track compliance, complaints,
39 and all other pertinent information about entities regulated under
40 the California Private Postsecondary Education Act of 2007.

1 ~~SEC. 3.~~

2 ~~SEC. 5.~~ No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.

11 ~~SEC. 4.~~

12 ~~SEC. 6.~~ This act shall not become operative unless and until
13 ~~A.B.~~ *Assembly Bill* 1525 of the 2007-08 Regular Session of the
14 Legislature is chaptered and becomes operative.